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Final Regulation Agency Background Document

Agency name	Department (Board) of Juvenile Justice
Virginia Administrative Code (VAC) Chapter citation(s)	6 VAC35-101
VAC Chapter title(s)	Regulation Governing Juvenile Secure Detention Centers
Action title	Comprehensive review of regulatory provisions governing juvenile secure detention centers that are currently contained in 6VAC35-101
Date this document prepared	June 14, 2022

This information is required for executive branch review and the Virginia Registrar of Regulations, pursuant to the Virginia Administrative Process Act (APA), Executive Order 14 (as amended, July 16, 2018), the Regulations for Filing and Publishing Agency Regulations (1VAC7-10), and the *Form and Style Requirements for the Virginia Register of Regulations and Virginia Administrative Code*.

Brief Summary

Provide a brief summary (preferably no more than 2 or 3 paragraphs) of this regulatory change (i.e., new regulation, amendments to an existing regulation, or repeal of an existing regulation). Alert the reader to all substantive matters. If applicable, generally describe the existing regulation.

The Regulation Governing Juvenile Secure Detention Centers establishes the minimum standards with which staff in secure juvenile detention centers must comply. The existing regulation addresses personnel and staffing requirements, physical environment, facility safety and security, residents' rights, program operations, health care, and behavior management for juvenile detention centers operating predispositional programs solely or both predispositional and postdispositional programs.

This regulatory action includes comprehensive amendments to the Regulation Governing Juvenile Secure Detention Centers. The purpose of the action is to continue to enhance programming and ensure safety and security within these facilities. Among the most noteworthy changes, the regulation imposes numerous restrictions on juvenile detention center staff use of mechanical restraints, the mechanical restraint chair, and spit guards, as well as room restriction and disciplinary room restriction.

Acronyms and Definitions

Define all acronyms used in this form, and any technical terms that are not also defined in the "Definitions" section of the regulation.

CPP means a community placement program.
CPS means Child Protective Services.
CSU means Court Service Unit
DHRM means the Virginia Department of Human Resource Management
DJJ means the Department of Juvenile Justice.
JDC means juvenile detention center.
Pre-D means predispositional
Post-D means postdispositional
PREA means the Prison Rape Elimination Act.
QMHP means qualified mental health professional.

Statement of Final Agency Action

Provide a statement of the final action taken by the agency including: 1) the date the action was taken; 2) the name of the agency taking the action; and 3) the title of the regulation.

On April 20, 2022, the Board of Juvenile Justice (the board) approved final amendments to the proposed text of the Regulation Governing Juvenile Secure Detention Centers and authorized the Department of Juvenile Justice (the department) to advance the regulation to the final stage of the standard regulatory process.

Mandate and Impetus

List all changes to the information reported on the Agency Background Document submitted for the previous stage regarding the mandate for this regulatory change, and any other impetus that specifically prompted its initiation. If there are no changes to previously reported information, include a specific statement to that effect.

There have been no changes to the information reported on the Agency Background Document submitted for the previous stage regarding the mandate and impetus for this regulatory change.

Legal Basis

Identify (1) the promulgating agency, and (2) the state and/or federal legal authority for the regulatory change, including the most relevant citations to the Code of Virginia and Acts of Assembly chapter number(s), if applicable. Your citation must include a specific provision, if any, authorizing the promulgating agency to regulate this specific subject or program, as well as a reference to the agency's overall regulatory authority.

The promulgating entity is the Board of Juvenile Justice (the board). The board is entrusted with general, discretionary authority to promulgate regulations by § 66-10 of the Code of Virginia, which authorizes the board to "promulgate such regulations as may be necessary to carry out the provisions of this title and other laws of the Commonwealth." Additionally, § 16.1-309.9 of the Code of Virginia requires the board to

“approve minimum standards for the construction and equipment of detention homes or other facilities and for food, clothing, medical attention, and supervision of juveniles housed in these facilities and programs.” Finally, Code of Virginia §16.1-284.1 gives the juvenile and domestic relations court the authority to issue an order confining a juvenile to a detention facility for a period not to exceed six months “in compliance with standards established by the State Board for such placements.” The board-established standards must include provisions requiring the facility to provide juveniles placed therein with separate services for their rehabilitation.

Purpose

Explain the need for the regulatory change, including a description of: (1) the rationale or justification, (2) the specific reasons the regulatory change is essential to protect the health, safety or welfare of citizens, and (3) the goals of the regulatory change and the problems it's intended to solve.

The proposed amendments are the result of a comprehensive review of this chapter conducted by department staff, representatives from the Virginia Juvenile Detention Association (VJDA), various state agencies, and several juvenile justice advocates. The amendments are necessary to streamline the language and clarify ambiguous or confusing provisions. The amendments also impose new requirements that align with changes that have occurred since the department's last review of the regulation, as well as recommendations the department received, as explained below:

Prison Rape Elimination Act (PREA): In 2003, Congress enacted PREA (Public Law No. 108-79) to “provide for the analysis of the incidence and effects of prison rape in federal, state, and local institutions and to provide information, resources, recommendations, and funding to protect individuals from prison rape.” The Act created a commission charged with developing standards for the elimination of prison rape. The final rule for these standards became effective in 2012; however, juvenile correctional facilities had until October 2017 to comply with the standards related to staffing requirements and staffing ratios. Although many detention centers have adopted written procedures or are employing practices that align with PREA's mandates, the department's existing regulatory provisions regarding staffing ratios directly conflict with the PREA standards for juvenile facilities. Maintaining the detention centers' existing staffing ratios could increase the likelihood of detention rape or assault incidents; therefore, the department is proposing amendments to these provisions that align with the mandates in PREA.

Additionally, PREA prohibits cross-gender searches of adults or juveniles in confinement. The PREA Resource Center has clarified that the determination of who should search a person in confinement should be made based on the person's gender identity rather than the sex they were assigned at birth. The existing regulation contains requirements that searches be performed by staff members of the same sex as the resident being searched, which does not align with PREA and could, in fact, violate PREA's prohibition on cross-gender searches in the case of a transgender resident. The department, therefore, proposes removing this requirement from the regulation.

Incorporation by Reference Prohibited: In 2016, the Virginia Code Commission promulgated regulations intended to provide state agencies with guidance on filing, submitting, and publishing agency regulatory actions. The regulations prohibit state agencies from incorporating documents of their own creation into the agency's regulations unless the agency establishes that the documents or circumstances are unique and unusual. Some of the provisions in the existing regulation require detention centers to adhere to department-developed procedures or guidelines in violation of the Code Commission's regulations. The department is proposing amendments to remove these invalid provisions.

Room Confinement: Legislation (Senate Bill 215) introduced during the 2016 Virginia General Assembly session by Senator Barbara Favola would have required the board to promulgate regulations that specified the parameters for imposing room confinement in JCCs and juvenile detention centers. Although the legislation ultimately failed, it prompted the department to make room confinement a focal point for examination during the comprehensive review of this chapter. As a result of this review, the

committee determined that additional restrictions were needed to ensure adequate monitoring protocols are in place, restriction periods are approved through proper channels, and medical and mental health professionals are assessing the impact on residents who are on room restriction for extended periods. These protocols will help to ensure the safety of residents who are confined to their rooms.

JDC Residents Under Custody of Separate Entities: At least one juvenile detention center currently contracts with the federal government to house residents under the federal government’s custody. This program operates separately from the facility’s pre-D and post-D programs. The department identified a gap in its certification authority that prevented the certification unit from inspecting and reviewing files of and interviewing residents under the federal government’s custody. This gap had prevented the department from verifying such facilities’ compliance with its regulations and from ensuring the safety of the program participants. The department addressed this issue through a fast-track regulatory action requiring these contracts to include provisions that bind the program to the department’s certification regulations and that give the department access to residents within the program. This proposal includes additional amendments to the fast-track change clarifying that such contracts must be in writing and communicated to the department.

*Note that during the 2020 legislative session, the General Assembly enacted legislation (2020 Acts of Assembly, Chapter 599) directing the board, in collaboration with the Department of Behavioral Health and Developmental Services (DBHDS) to establish regulations governing the housing of such youth who are detained in a juvenile correctional facility pursuant to contracts with the federal government. In order to carry out this directive, the department has convened a committee of representatives from juvenile detention centers, DJJ staff, the Office of Refugee Resettlement, and (DBHDS). The department anticipates filing a separate regulatory action once this committee completes its work.

Mechanical Restraints: The use of mechanical restraints and, more specifically, the mechanical restraint chair, in secure juvenile facilities has generated significant controversy in recent years. When the proper approvals, restrictions, and monitoring controls are not in place or when staff utilize these devices negligently, they can be dangerous to residents in secure facilities. Virginia’s current regulations impose very few restrictions on the use of mechanical restraints and the restraint chair. Furthermore, this chapter is completely silent with respect to rules governing the use of spit guards and similar devices used to curtail spitting on and biting staff. These omissions could leave both staff and residents susceptible to injury and JDCs vulnerable to litigation. The department, therefore, proposes numerous amendments governing and curtailing the use of mechanical restraints, the restraint chair, and protective devices such as spit guards. These protections are essential to protect the health, safety, and welfare of residents, staff, and visitors in JDCs and individuals in the community. Additionally, implementing clear, concise regulatory requirements in this area will help the JDCs operate more safely and efficiently, thereby meeting the department’s overall rehabilitation and community safety objectives.

Substance

Briefly identify and explain the new substantive provisions, the substantive changes to existing sections, or both. A more detailed discussion is provided in the “Detail of Changes” section below.

The department recommends the following new provisions to the regulation, as summarized below:

- Sections 630 (existing) and 635, incorporating the provisions of Parts I and II of the existing, department-developed Guidelines for Transporting Juveniles in Detention, which establish rules related to vehicular transportation of detained juveniles, transportation of violent and disruptive residents, and transportation of residents traveling outside jurisdictional boundaries or to specified destinations. (*Recommended at Proposed Stage.*)

- Section 1100 (existing), outlining new parameters for residents placed in room restriction, including residents restricted for safety and security or for violating a rule of the facility. *(Recommended at Proposed Stage.)*
- Section 1105, outlining the protocol when JDCs place residents in “disciplinary room restriction” as a consequence for violating a facility rule and after the resident has been afforded the protections of the disciplinary process. *(Recommended at Proposed Stage.)*
- Sections 1130 (existing), 1140 (existing), 1145, 1153, 1154, 1155, 1156, 1157, and 1158, establishing new restrictions on the use of mechanical restraints, protective devices, mechanical restraint chairs, and spit guards and similar devices. *(Recommended at Proposed Stage.)*

The department recommends several substantive amendments to existing language in this regulation, as summarized below:

Part I – General Provisions

- Remove the term “qualified mental health professional” from the definitions section and add the term “mental health clinician”. Replace “qualified mental health professional” with “mental health clinician” in multiple provisions throughout the text. *(Recommended at Final Stage.)*
- Amend the definition of “room restriction” to clarify that it does *not* include medical isolation or time spent in a resident’s room due to structured programming requirements (e.g., during shift changes, showers, resident movement, or other activities necessary for safety and security during daily operations). *(Recommended at Final Stage.)*
- Remove the explicit provision mandating that facilities that fail to comply with a regulatory requirement must ensure this noncompliance will not pose a danger to residents. *(Recommended at Proposed Stage.)*
- Add language requiring JDCs that enter into agreements to detain residents under custody of a separate entity to document the agreement in writing, notify the department immediately of such agreement, and provide the department with a copy of the agreement. *(Recommended at Proposed Stage.)*
- Remove the requirement that facility staff report serious incidents in accordance with department procedures. *(Recommended at Proposed Stage.)*
- Add language requiring that JDCs report any use of the mechanical restraint chair, regardless of the purpose or duration of use, as a serious incident. *(Recommended at Final Stage.)*
- Add language requiring that JDC staff self-report any arrests or criminal charges to the facility administrator. *(Recommended at Final Stage.)*

Part II – Administrative and Personnel

- Add provisions to reflect the statutory language that prohibits JDCs from hiring for employment or bringing on as volunteers or contractors certain individuals convicted of applicable barrier crimes. *(Recommended at Proposed Stage.)*
- Remove the directive that every employee’s records contain annual performance evaluations. *(Recommended at Proposed Stage.)*
- Strike the requirement that the resident’s face sheet include the address of the applicable CSU. *(Recommended at Proposed Stage.)*
- Add language requiring that a resident’s face sheet include gender identity and primary and preferred languages. *(Recommended at Final Stage.)*

Part III – Physical Environment

- Allow facility administrators to identify in written procedures the critical safety, emergency, and communications equipment that must be inspected, tested, and maintained regularly. *(Recommended at Proposed Stage.)*

- Modify the ratio of showers or bathtubs to residents for facilities constructed or structurally modified on or after December 28, 2007 from 1:4 to 1:5. (*Recommended at Proposed Stage.*)
- Strike the language mandating separate sleeping rooms for male and female residents. (*Recommended at Final Stage.*)
- Expand the types of tobacco prohibited and the category of individuals precluded from using tobacco products in areas of the JDC premises where residents may see or smell the product by striking all previous language related to smoking prohibition and replacing it with language drawn directly from the Code of Virginia. (*Recommended at Proposed Stage with additional amendments at the Final Stage.*)
- Strike the mandate that animals maintained on the premises be housed a reasonable distance from sleeping and living areas. (*Recommended at Proposed Stage.*)

Part IV – Safety and Security

- Amend the facility's emergency preparedness training requirements to cover the implementation of evacuation procedures that encompass all individuals with disabilities (e.g., visitors) who may be in the facility rather than focusing solely on residents with disabilities. (*Recommended at Proposed Stage.*)
- Remove the requirement that patdown and full searches be conducted by a staff member of the same sex as the resident. (*Recommended at Final Stage.*)
- Add a requirement that a staff witness be present for full searches and that a witness be present for manual and instrumental anal or vaginal cavity searches except for medical examinations. (*Recommended at Final Stage.*)
- Reinstate the facility administrator's authority to approve manual and instrumental anal or vaginal cavity searches. This authority had been removed at the Proposed Stage. (*Recommended at the Final Stage.*)
- Add language directing that when JDCs allow third parties to assume temporary custody of residents for purposes of transportation, the JDC provide those parties with written information known to the JDC concerning the immediate medical needs and mental health condition of the resident, including the resident's recent suicidal ideations or suicide attempts. (*Recommended at Proposed Stage.*)

Part V – Residents' Rights

- Replace references to physician with "health care professional" throughout the regulation in order to allow other health officials (e.g., nurses) within the facility to make decisions concerning: i) deprivation of food or water for legitimate medical purposes; ii) administration of special diets or alternative dietary schedules; and iii) whether the facility is capable of caring for residents with confirmed communicable diseases. (*Recommended at Proposed Stage.*)
- Direct the facility to consider the resident's own views regarding his safety in determining whether the resident is a member of a vulnerable population. (*Recommended at Proposed Stage.*)
- Require that first class mail received for released or transferred residents be forwarded to the resident's last known address or forwarding address or returned to sender. (*Recommended at Proposed Stage.*)
- Allow for an exception for certain specified purposes to the requirement that residents receive daily opportunities to shower provided required approvals are obtained and the exception is authorized in written procedures. (*Recommended at Proposed Stage.*)
- Permit special diets, with required approvals, for residents who have used food or utensils to threaten facility security. (*Recommended at Proposed Stage.*)
- Add a requirement that residents' consent to participate in fundraising activities must be in writing. (*Recommended at Final Stage.*)

Part VI – Program Operation

- Require facilities to conduct a general assessment of the resident's physical condition during the admission process, and prohibit the facility from admitting certain impaired individuals, individuals in need of medical attention, or individuals who require immediate emergency medical treatment, until they have been medically cleared for admission. (*Recommended at Proposed Stage.*)
- Allow JDCs to supplement the mental health screening instrument used to conduct the statutorily mandated screenings with additional questions or observations. (*Recommended at Proposed Stage.*)
- Allow the facility to establish the manner by which the identity of individuals making entries into the daily log will be recorded. (*Recommended at Proposed Stage.*)
- Restrict residents' abilities to assist in support functions to those tasks that are part of the established, structured program. (*Recommended at Proposed Stage.*)
- Modify the required staffing ratios from 1:10 to 1:8 during resident waking hours and direct JDCs to develop, implement, and document a staffing plan providing for adequate staffing and video monitoring, where applicable. (*Recommended at Proposed Stage.*)
- Strike the requirement that a resident's paid or unpaid work assignments accord with the resident's individual service plan. (*Recommended at Proposed Stage.*)

Part VII – Health Care Services

- Mandate that first aid kits be maintained in facility vehicles used to transport residents. (*Recommended at Proposed Stage.*)
- Expand the list of entities a staff member may contact to respond to a medication incident to include a hospital. Explicitly exclude from the definition of medication incident a JDC's failure to administer medication due to repeated unsuccessful attempts to obtain the medication. (*Recommended at Proposed Stage.*)

Part VIII – Behavior Management

- Explicitly establish the parameters that must be addressed in written procedures regarding cooling-off periods related to communication, staff monitoring, and documentation. (*Recommended at Proposed Stage.*)
- Require the facility administrator to collect information specifically on the use of room restriction and cooling-off periods and to review the information annually to inform the facility's practices. (*Recommended at Proposed Stage.*)
- Remove the JDC's duty to document the rationale for failing to complete the disciplinary report within the required 12 hours, or the appeal within the required 24 hours, if the delay results from the resident's scheduled sleeping hours. (*Recommended at Proposed Stage.*)
- Remove the facility's duty to notify the resident **in writing** of the results of a disciplinary appeal, instead allowing the resident and staff to certify in writing that the resident was informed of the appeal results. (*Recommended at Proposed Stage.*)
- Strike the provision that makes the duty to place a disciplinary report in the resident's case record contingent upon a guilty outcome in a disciplinary proceeding. (*Recommended at Proposed Stage.*)
- Expand the information that must be addressed in written procedures governing room restriction to include its consequences, factors to consider before "restricting" a resident, circumstances under which a resident should be debriefed, and the conditions that warrant consultation with a mental health professional and expanded monitoring for restricted residents exhibiting self-injurious behavior. (*Recommended at Proposed Stage.*)
- Increase the frequency of required room checks during room restriction from 30-minute intervals to 15-minute intervals. (*Recommended at Proposed Stage.*)
- Clarify that the type of daily exercise that JDCs must afford restricted residents is large muscle exercise, and allow for exceptions only if approved by the facility administrator or the facility administrator's designee. (*Recommended at Proposed Stage.*)

- Require the facility administrator or the facility administrator's designee to provide written approval, including a rationale for why the continued room restriction is necessary, for any room restriction beyond 24 hours. *(Recommended at Proposed Stage.)*
- Require a QMHP or qualified medical professional to conduct an assessment of a resident's mental health and medical status if the room restriction is anticipated to exceed 72 hours. The assessment must occur within the initial 72-hour room restriction period, and on a daily basis following the 72-hour period until the resident is released from restriction. *(Recommended at Proposed Stage. Updated at Final Stage to change "qualified mental health professional" to "mental health clinician.")*
- Expand the individuals authorized to extend room restriction beyond five days to include QMHPs, in addition to medical providers. *(Recommended at Proposed Stage. Updated at Final Stage to change "qualified mental health professional" to "mental health clinician.")*
- Direct the facility administrator, as part of his daily personal contact with each restricted resident, to assess and document whether "nondisciplinary-restricted" residents are prepared to return to general population and whether any "restricted resident" requires a mental health evaluation. *(Recommended at Proposed Stage. This recommendation was updated at the Final Stage to include residents in disciplinary room restriction, as well.)*
- Provide that residents placed in room restriction may not be housed more than one to a room. *(Recommended at Proposed Stage.)*
- Prohibit JDCs from restricting legally required educational programming or special education services during disciplinary room restriction. Remove the facility administrator's absolute bar on restricting reading and writing, and mandate that the facility administrator provide opportunities for these activities according to the restricted resident's safety and security needs. *(Recommended at Proposed Stage.)*
- Impose a number of restrictions on the use of spit guards in juvenile detention centers. Amendments to the regulation will allow JDC staff to use spit guards on residents but limit the types of spit guards that may be used and the manner in which they may be applied. *(Recommended at Proposed Stage)*
- Impose additional restrictions on the purposes for which mechanical restraints and the mechanical restraint chair may be used. *(Recommended at Proposed Stage.)*
- Impose other restrictions and controls on the use of mechanical restraints, protective devices, and restraint chairs, including, for example, limiting the duration of use, requiring certain medical staff to be notified at various stages of the process, imposing various additional documentation requirements, requiring staff to film use of the chair, requiring DJJ monitoring visits for each restraint chair use; and requiring annual reporting to and review by the board. *(Recommended at Proposed Stage.)*
- Specify that JDC staff may secure residents to hospital beds or wheelchairs in outside medical settings with certain written approval. *(Recommended at Proposed Stage.)*
- Allow JDCs to have a system of accountability in place, rather than a written record of routine and emergency restraint equipment distribution. *(Recommended at Proposed Stage.)*
- Add an exception to certain monitoring requirements for residents placed in mechanical restraints when being transported offsite. *(Recommended at Final Stage.)*
- Clarify that staff must first take appropriate action to stabilize the threat or harm when a mechanically restrained resident exhibits self-injurious behavior, before consulting with a mental health professional. *(Recommended at Proposed Stage. Updated at Final Stage to use the term "mental health clinician.")*

Part IX – Postdispositional Detention Programs

- Replace the "board" with the "director" as the entity authorized to certify JDC postdispositional programs and remove the requirement that this approval be based on the facility's compliance with the post-D regulatory provisions. *(Recommended at Proposed Stage.)*

Personnel Provisions for Volunteers, Interns, and Contractors (Recommended at Proposed Stage.): To make the regulation easier to navigate, the department is recommending rearranging a

number of the personnel-related provisions addressing background checks, orientation, and training for employees and certain contractors and volunteers in JDCs. This necessitates the repeal of an entire article on volunteers and interns and the creation of several new provisions in another article to incorporate these repealed provisions. The new provisions are as follows:

- Section 152 (selection and duties of volunteers or interns); *replaces Section 280.*
- Section 175 (contractor background checks); *replaces provisions in Section 170.*
- Section 177 (volunteer and intern background checks); *replaces provisions in Sections 170 and 290.*
- Section 185 (required initial orientation for contractors); *replaces provisions in Section 180.*
- Section 187 (required initial orientation for volunteers and interns); *replaces Section 300.*
- Section 195 (required initial training for contractors); *replaces provisions in Section 190.*
- Section 197 (required initial training for volunteers and interns); *replaces Section 300.*

Issues

Identify the issues associated with the regulatory change, including: 1) the primary advantages and disadvantages to the public, such as individual private citizens or businesses, of implementing the new or amended provisions; 2) the primary advantages and disadvantages to the agency or the Commonwealth; and 3) other pertinent matters of interest to the regulated community, government officials, and the public. If there are no disadvantages to the public or the Commonwealth, include a specific statement to that effect.

Many of the amendments proposed in this regulatory action are expected to be advantageous to the public. The proposed additional monitoring and documentation requirements for residents placed in room restriction and on cooling-off periods will enhance resident safety and facility security. JDCs will be equipped with additional information to determine the effectiveness and benefits of their behavior management programs and intervention techniques. Modified staff-to-resident ratios, compliance with PREA mandates, and expanded smoking prohibitions will enhance safety for JDC staff and residents alike.

Similarly, additional controls placed on the use of mechanical restraints, protective devices, and the mechanical restraint chair will help to ensure that residents who are mechanically restrained due to behavior that threatens themselves or others or impedes critical facility operations will be restrained in a manner that ensures their safety.

Requirements More Restrictive than Federal

List all changes to the information reported on the Agency Background Document submitted for the previous stage regarding any requirement of the regulatory change which is more restrictive than applicable federal requirements. If there are no changes to previously reported information, include a specific statement to that effect.

Conditions of confinement in JDCs are subject to federal constitutional requirements as well as applicable federal law and regulations (e.g., the Americans with Disabilities Act of 1990, the Americans with Disabilities Amendments Act of 2008, 42 USC §12101, and the Prison Rape Elimination Act of 2003). The proposed regulation generally imposes requirements consistent with these provisions.

Agencies, Localities, and Other Entities Particularly Affected

List all changes to the information reported on the Agency Background Document submitted for the previous stage regarding any other state agencies, localities, or other entities that are particularly affected by the regulatory change. If there are no changes to previously reported information, include a specific statement to that effect.

Other State Agencies Particularly Affected

No other state agency will be particularly affected by the regulatory change.

Localities Particularly Affected

Juvenile and domestic relations district court judges throughout the Commonwealth are authorized to place juveniles in detention centers. The proposed regulation will govern the 24 secure juvenile detention centers in existence in the Commonwealth, each of which is operated and governed by a locality or a commission consisting of several localities. Generally, each locality or commission will be affected equally by the changes from the current regulatory scheme. The proposed amendments regarding mechanical restraint chairs and spit guards will impact only those detention centers that utilize these devices. The proposed provision governing contracts with separate entities will apply only to those detention centers that have or will have contracts with separate entities to house residents under the separate entity's custody.

Other Entities Particularly Affected

No other entities will be particularly affected by the regulatory changes.

Public Comment

Summarize all comments received during the public comment period following the publication of the previous stage, and provide the agency response. Include all comments submitted: including those received on Town Hall, in a public hearing, or submitted directly to the agency. If no comment was received, enter a specific statement to that effect.

Commenter	Comment	Agency response
disAbility Law Center of Virginia (dLCV)	DLCV recommends prohibiting the use of the mechanical restraint chair in all secure detention centers, the use of the spit guard and similar devices, and the use of room restriction as a sanction for noncompliance or as punishment. Additionally, DJJ should use room restriction only after less restrictive measures are unsuccessful in mitigating the immediate threat of harm. The use of the restraint chair in secure detention centers in Virginia is exceedingly rare, which highlights the ability for facilities to maintain safety and security without using it. The chair is associated with severe risks, and there is little empirical evidence to	While the board recognizes these concerns as valid, it is reluctant to remove tools that are used in juvenile secure detention centers to restrain residents whose behavior threatens the health and safety of residents and staff when no clear, workable alternative is in place. Efforts to restrain residents physically can lead to severe injuries for both residents and staff and can produce similar types of psychological trauma to the youth being restrained. Residents who spit on other residents or staff may transmit diseases that are borne in bodily fluids. The reporting requirements and parameters for using these methods of restraint contained in the final proposed regulation will allow the board to monitor the use of the chair, the use of spit guards and similar devices, and disciplinary

	<p>support its use. Spit guards and similar devices pose a risk of asphyxiation and may exacerbate symptoms that led to its use. Due to the physical and mental health risks posed by room restriction, it should be used only in limited instances to abate an immediate threat to others when less restrictive interventions have been exhausted. DJJ should place greater emphasis on de-escalation strategies.</p>	<p>room restriction to determine whether these provisions should be revisited in the future.</p>
<p>Rob Poggenklass, Legal Aid Justice Center (LAJC)</p>	<p>LAJC recommends the board prohibit the use of the mechanical restraint chair, spit guards, and involuntary room restriction. All of these methods are unsafe and are antithetical to the department's goals of community safety and juvenile rehabilitation. All of these methods carry serious physical and mental health risks. Facilities across the country have implemented other methods of crisis intervention that keep youth and staff safe, and the department should do the same by redirecting its efforts toward holistic policies that prioritize young people's health, safety, and well-being.</p>	<p>While the board recognizes these concerns as valid, it is reluctant to remove tools that are used in juvenile secure detention centers to restrain residents whose behavior threatens the health and safety of residents and staff when no clear, workable alternative is in place. Efforts to restrain residents physically can lead to severe injuries for both residents and staff and can produce similar types of psychological trauma to the youth being restrained. Residents who spit on other residents or staff may transmit diseases that are borne in bodily fluids. The reporting requirements and parameters for using these methods of restraint contained in the final proposed regulation will allow the board to monitor the use of the chair, the use of spit guards and similar devices, and disciplinary room restriction to determine whether these provisions should be revisited in the future.</p>
<p>Marilyn Brown, Director, Chesterfield Juvenile Justice Services and President, VJDA</p>	<p>Ms. Brown spoke at the April 20, 2022, meeting of the board to express her support for the revised regulations and to ask the board to approve advancing them to the final stage of the regulatory process.</p>	<p>The board appreciates Ms. Brown's remarks.</p>
<p>Jason Houtz, Director, Fairfax Juvenile Detention and Secretary, VJDA</p>	<p>Mr. Houtz spoke at the April 20, 2022, meeting of the Board of Juvenile Justice. He expressed his support for the revised regulations and expressed confidence that the amended regulations improved significantly upon what is currently in place. He asked the board to approve advancing the regulation to the final stage of the regulatory process.</p>	<p>The board appreciates Mr. Houtz's remarks.</p>

Detail of Changes Made Since the Previous Stage

List all changes made to the text since the previous stage was published in the Virginia Register of Regulations and the rationale for the changes. For example, describe the intent of the language and the expected impact. Describe the difference between existing requirement(s) and/or agency practice(s) and what is being proposed in this regulatory change. Explain the new requirements and what they mean rather than merely quoting the text of the regulation. * Put an asterisk next to any substantive changes.

Current chapter-section number	New chapter-section number, if applicable	New requirement from previous stage	Updated new requirement since previous stage	Change, intent, rationale, and likely impact of updated requirements
10	N/A	<p>Section 10 provides the definitions governing juvenile secure detention centers. Terms defined in other sections of the regulation were moved to Section 10 and revised slightly for style, including, for example: medication incident (1060 – <i>error made in administering medication to a resident</i>).</p> <p>Substantive revisions were made to several existing terms, including, for example: Medication incident – modified to exclude a facility’s failure to administer medication due to repeated unsuccessful attempts to obtain the medication.</p> <p>Additionally definitions for undefined terms used throughout the existing regulation were added: contractor (<i>individual in a contractual agreement with a JDC to directly and regularly serve residents</i>), disciplinary room restriction (<i>room restriction as a consequence for rule violation after application of the disciplinary process</i>), room restriction (<i>resident is restricted involuntarily to sleeping room to ensure</i></p>	<p>The following terms were edited slightly for style: contractor, disciplinary room restriction, health care services, medication incident, and spit guard.</p> <p>*The definition of mental health clinician was updated to clarify the qualifications necessary to be considered a mental health clinician under the provisions of this regulation. Specifically, the definition now requires that the person be licensed to provide assessment, diagnosis, treatment planning, and other specified services or that the person be license-eligible and working under the supervision of a licensed mental health clinician.</p> <p>*In tandem with the above change, the term qualified mental health professional was stricken from this section. This term</p>	<p>Style edits were made to improve the clarity and precision of the language in this section.</p> <p>*The change to the definition of mental health clinician is intended to ensure residents are assessed and treated by the appropriate level of mental health professional. This is important for the resident’s treatment and rehabilitation, as well as for the safety and security of the facility.</p> <p>*The term qualified mental health professional was defined in the Code of Virginia after this regulation became effective in 2014. The definition in 6VAC35-101 does not match the definition used by the General Assembly, nor does it align with the requirements the department has deemed necessary for the safe and effective treatment of residents. To avoid confusion, the department recommends using the term mental health clinician, as defined in this section, instead.</p>

		<p><i>safety or security, or hold resident accountable for a rule violation), and spit guard (a device designed to prevent the spread of communicable diseases as a result of spitting or biting).</i></p>	<p>was replaced with mental health clinician in the relevant sections.</p> <p>*The definition of room restriction was amended to clarify that, for the purposes of this regulation, disciplinary room restriction shall not include medical isolation or time a resident spends in their room for structured programming requirements (e.g., during shift changes, showers, resident movement, or other activities necessary for safety and security during daily operations).</p>	<p>*The department has implemented increasingly strict requirements pertaining to the use of room restriction in juvenile secure detention centers. These requirements reflect the national trend toward more monitoring protocols, additional opportunities for staff/resident interaction, and measures to ensure the continued safety of restricted residents. These requirements do, however, place an additional administrative and staffing burden on JDC staff. To minimize that burden, the department has determined that restricting residents to their rooms for brief periods as a safety and security measure during certain routine activities does not run counter to efforts to reduce the use of room restriction or to impose greater controls around its use. Examples of this type of routine activity include during shift changes or while residents are showering. Additionally, the experience of the COVID-19 pandemic highlighted the need for flexibility when medical isolation is required.</p>
20	N/A	<p>At the proposed stage, the redundant description of post-D programs was stricken. This information is established in Section 10's definition of post-D programs.</p>	<p>At the final stage, the department proposes adding postdispositional detention without programs to the list of programs to which this regulation applies.</p>	<p>Residents may be held postdispositionally with or without programs. This language clarifies that the regulation applies in both cases. This change will not impact residents, staff, or facility operations.</p>

60	N/A	The previous stage included only style edits in this section.	Added language to (A) and (B) to clarify that the required timeframes for reporting information to the director are in business days.	This is a clarifying change and does not impact residents, staff, or facility operations.
80	N/A	<p>(A) The proposal removed the mandate to report serious incidents in accordance with the department's procedures. This requirement was invalidated due to the 2016 Virginia Code Commission regulation (1VAC7-10-140) prohibiting agencies from incorporating their own documents into regulations by reference. JDCs remain bound to the department's procedures as a standalone document.</p> <p>(D) The proposal added language requiring the individual completing the serious incident report to include in the report the date and time on which the notifications were provided to the director, CSU, and parent or legal guardian.</p> <p>The proposal made minor edits for style.</p>	<p>(A) Deleted an unnecessary catchline that had been included for reference purposes. *Also added the use of the mechanical restraint chair by facility staff for any reason to the list of serious incidents that must be reported within 24 hours.</p> <p>(C) and (D) Changed the facility to the facility administrator or the facility administrator's designee.</p>	<p>*(A) The addition of the use of the mechanical restraint chair to the list of serious incidents that must be reported within 24 hours conforms this section to Section 1153 pertaining to the use of the chair and related reporting requirements.</p> <p>(C) and (D) In numerous places throughout the regulation, the facility is used as a vague subject. For example, in (C) of this section, "...the facility shall notify the parents or legal guardians, as appropriate..." This language does not convey who, exactly, is responsible for carrying out these regulatory requirements, so the department recommends more specific language where the facility has been used this way. In most cases, the facility administrator or the facility administrator's designee has been used, although, in a few places, facility staff was deemed more appropriate.</p>
95	N/A	(A) The proposal struck the examples of offenses that must be reported to the facility administrator. The existing language requires all known criminal activity be reported, rendering the list of examples	*(A) The language was edited for style, and a requirement was added that JDC procedures shall require residents to self-report to the facility administrator	*(A) The substantive portion of this change is intended to enhance safety and security for residents by making the requirements for reporting real or alleged criminal activity more robust.

		superfluous. The proposal also expanded the duty to report to include known criminal activity suspected to have been committed by residents or staff.	any arrests or criminal charges.	
140	N/A	The previous stage made only a nonsubstantive change to follow a style manual recommendation.	The language in subsection A was edited for style.	This was a style edit and does not affect the substance of the regulation.
180	N/A	Changes at the previous stage were limited to formatting changes.	(B)(8) The words “in his position” were changed to “in the position.”	(B)(8) This change is not substantive but was made to eliminate gendered language.
190	N/A	(B)(4) The proposal provided that training on the use of protective devices, the mechanical restraint chair, room restriction, and disciplinary room restriction must be covered during the behavior intervention procedures training, in addition to physical and mechanical restraint training.	(B)(4) This item describes one type of initial training required for employees. The text was edited for style. (C) Added the phrase “use of the” in reference to training on the facility’s approved restraint techniques. (D) Replaced “prior to” with “before.” *(D) Replaced “certified” with “licensed.” (E) Added the phrase “before performing these duties.”	(B)(4) This change is stylistic and eliminates the repetitive and unnecessary use of the word “training.” (C) This addition clarifies that the training required in this provision includes how to use the facility’s approved restraint techniques. The previous language was open to interpretation. (D) This change reflects a recommendation in the <i>Style Manual</i> . *(D) This change corrects an error indicating that an employee may administer medication if certified to do so by the Commonwealth. The employee must, in fact, be licensed by the Commonwealth. (E) This is a clarifying change and does not impact the existing requirement or current practice.
200	N/A	(F) The proposal added language clarifying that	(D) Changed the citation from	(D) This is a correction. The citation in the

		the medication administration training must include, at a minimum, a review of the components required in § 1060 related to medication (e.g., medication incidents, medication administration records, medication refusals, etc.).	6VAC35-101-1090 to 6VAC35-101-1115. (F) Edited for style.	previous stage was incorrect. (F) This change is proposed for style and clarity.
260	N/A	The proposal made minor style edits.	The opening sentence of this section was edited for style and clarity. "The facility" was amended to read, "The facility administrator or the facility administrator's designee."	These changes are stylistic and do not affect the substance of the regulation. The change from facility to facility administrator or facility administrator's designee is discussed at Section 80 above.
310	N/A	The proposal made several minor edits for style.	(B) The proposal replaces the word "phone" with "telephone."	(B) This change is a style edit.
340	N/A	The proposal removed the requirement that the <i>address</i> of the applicable CSU be provided on the resident's face sheet. The <i>name</i> of the applicable CSU remains a requirement for inclusion on the resident's face sheet and will reference the applicable CSU district.	*(A)(1) The proposal adds gender identity and primary and preferred languages to the list of information gathered at the time of a resident's admission.	*(A)(1) The department determined that collecting this additional information is important to help improve services provided to youth and to enhance safety and security. Staff must know a resident's gender identity in order to comply with certain requirements in the Prison Rape Elimination Act, and this information also can be helpful in determining whether the resident should be considered a member of a vulnerable population. Knowing whether the resident is proficient in English and/or whether the resident prefers to communicate in another language informs what language services, if any, will be required to help ensure the resident

				is aware of their rights and the facility's expectations for their behavior. This change makes a minimal increase in the information JDC staff must include on the resident's face sheet.
360	N/A	The proposal made several style edits.	(A) The final stage proposal makes an edit for style.	(A) This is a style edit.
420	N/A	The proposed stage updated provisions regarding toilet facilities to reflect current facility design.	(D) This subsection directs the maximum number of staff members on duty in a living unit to be counted in determining the required number of toilets and hand basins when a separate staff bathroom is not provided. This requirement is stricken in the final stage language.	(D) All existing facilities have separate staff restrooms, so this requirement is unnecessary. This change is not expected to impact residents or staff.
430	N/A	The proposal replaced the reference to "sleeping areas" in the catchline and "sleeping quarters" in subsection C, with "sleeping rooms." The proposal also made several minor edits for style purposes.	*(A) This subsection requires males and females to have separate sleeping rooms. This requirement is stricken in the final stage proposal. Subsection lettering was adjusted accordingly.	*(A) Currently, all JDCs have only single-occupancy rooms based upon requirements elsewhere in DJJ regulations, and any JDCs constructed in the future would reasonably be expected to have the same. Additionally, Section 830 requires that sleeping room assignments be made according to a written plan, taking into consideration a number of factors including a resident's individual characteristics and the results of the vulnerability assessment required by Section 665. A resident's sex and/or gender would be included in those considerations. These requirements provide

				the necessary parameters for room assignments and make the language in subsection A unnecessary.
460	N/A	The proposal expanded the tobacco use prohibition to include contractors, volunteers, and interns, and extended the list of prohibited items to include additional tobacco products and nicotine vapor products, as defined in <i>Code of Virginia</i> § 18.2-371.2, such as electronic cigarettes, electronic cigars, electronic cigarillo, electronic pipes or similar items. The proposal also explicitly prohibited residents from using, possessing, purchasing or distributing tobacco or nicotine vapor products.	*The text was updated at the final stage to reflect the language used in the Code of Virginia and to align the provisions more closely with those approved by the board for the state’s juvenile correctional center(s).	*Using language already in the Code of Virginia reduces the risk of confusion or misinterpretation. Aligning the provision more closely with the language approved by the board for the JCCs helps ensure consistency between the JDCs and JCCs in addressing this issue.
470	N/A	The proposal made minor technical edits to reduce confusion and promote clarity.	The proposal replaces the phrase <i>utilized interchangeably</i> with <i>used for multiple purposes.</i>	This change is intended to improve the clarity of the language and is not substantive.
510	N/A	The proposal made additional style edits.	Additional style edits were recommended at the final stage.	These changes are not substantive but are part of an effort to improve language flow and clarity throughout the text and to follow recommendations in the <i>Style Manual</i> .
560	N/A	The proposal replaced all reference to “strip searches” in this section with “full search” in order to reflect the nomenclature that has been adopted in many JDCs in Virginia. A definition for full search was added to Section 10 that incorporates the commonly understood	At the final stage, all previous language in this section was stricken and replaced with new language to make the new text easier to read. Many of the requirements are the same, but the provisions were restructured, and	*(A) While the language at the final stage still requires JDCs to have written procedures governing resident searches, the new text establishes as outright requirements three items JDCs had been required to include in their procedures. The department determined

		<p>concepts of strip searches and that includes visual inspections of vaginal and anal cavities.</p> <p>(D) At the request of the JDCs, the proposal restricted a facility administrator’s authority to approve manual and instrumental anal and vaginal cavity searches by permitting such searches only by court order or upon occurrence of an exigent circumstance requiring medical attention. This change would have relieved the facility administrator of the broad discretion to order strip searches, and allow the facility administrator to permit such searches only in response to a court order or in a medical emergency.</p>	<p>there were a few substantive changes:</p> <p>*(A) At the proposed stage, A listed three requirements that must be included in written procedures governing resident searches. At the final stage, the structure was changed to make those three items outright requirements within the regulation (under B in the new text).</p> <p>*(B) At the proposed stage, B required that searches be conducted by a staff member of the same sex as the resident. The final stage removes this requirement.</p> <p>*(C) The same-sex requirement was removed, as above, and a new requirement was added that a staff witness be present during full searches and visual inspections of the vagina and anal cavity areas.</p> <p>*(D) The language at the final stage reinstates the facility administrator’s authority to grant written approval for manual and instrumental anal and vaginal cavity searches. A witness requirement also was added.</p>	<p>that these three provisions were of sufficient importance to merit the direct requirements.</p> <p>*(B) PREA prohibits cross-gender searches of residents. The proposed stage language requiring that searches be conducted by staff of the same sex as the resident had the potential to conflict with PREA if the resident being searched is transgender. Since JDCs are subject to specific PREA audits, and since the federal requirements contained in PREA supersede any conflicting state requirements, the department determined that DJJ’s regulation should be silent on this issue and should instead focus on ensuring residents’ privacy, safety, and dignity.</p> <p>*(C) As above, the requirement that staff members performing searches be of the same sex was removed at the final stage. To enhance protections for residents, this provision was expanded to include both full searches and visual inspections of the vagina and anal cavity areas, and a new requirement was added that a staff witness be present. While the presence of a staff witness could be seen as an infringement on resident privacy, the</p>
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				<p>department determined the safety interests of the youth outweigh any privacy concerns raised by adding this requirement.</p> <p>*(D) While mindful of the concerns related to the authority of facility administrators to authorize manual and instrumental searches of the anal cavity or vagina, the department determined that restricting these searches only to those authorized by court order or in exigent medical circumstances would be inadvisable. Facility administrators who determine such searches are necessary may be unable to obtain a court order expeditiously after business hours or on weekends and holidays, increasing the risk that a youth may be concealing an item harmful to other residents or staff. Allowing facility administrators this discretion but requiring that authorization be made in writing balances the privacy rights of the resident being searched with the health and safety needs of other residents and staff.</p>
620	N/A	The proposal made minor style edits.	The language at the final stage makes an additional edit to change <i>the facility to the facility administrator or the facility administrator's designee.</i>	As discussed previously, this change was made throughout the text to clarify accountability in the relevant provisions.

630	N/A	The proposal added specific language lifted from Part I of the Guidelines for Transporting Juveniles in Detention, which were issued by the board in 2004 to establish administrative and safety guidelines local JDC staff must follow when transporting or allowing others to transport residents outside the JDC.	The proposal at the final stage makes minor style edits and corrects a regulatory citation in (C) (3).	These are style edits and a correction and do not impact the substance of the regulation.
635	N/A	The proposal added this new section containing provisions lifted from Part II of the Guidelines for Transporting Juveniles in Detention (<i>See discussion of Section 630</i>). Part II of the Guidelines addresses the transportation of violent and disruptive JDC residents and residents traveling to certain other destinations.	Minor changes at the final stage are for style and to correct a citation to the Code of Virginia (E).	These are style edits and a correction and do not impact the substance of the regulation.
655	N/A	The proposal struck the definition for vulnerable population contained in § 655(C) and moved it to § 10 pursuant to the Style Manual. The definition no longer lists the examples of factors that may indicate that a resident is “vulnerable” for these purposes. Rather, the proposal added language in § 655(A) expressly indicating that these examples are factors that may be considered in determining whether a resident is vulnerable. The proposal also added language indicating that a resident’s own views with respect to their safety must be considered.	The language at the final stage replaces the facility with the facility administrator or the facility administrator’s designee .	As discussed previously, this change was made throughout the text to clarify accountability in the relevant provisions.

660	N/A	The proposed stage text included several changes to the provisions related to residents' mail. None of these provisions underwent substantive changes during the final stage.	The proposal at the final stage removes gendered language in (D).	This change is in accordance with recommendations contained in the <i>Style Manual</i> .
710	N/A	The proposal allowed a JDC, through written procedures, to grant an exception to the general rule requiring residents a daily opportunity to shower in order to maintain facility security or to manage residents with maladaptive behaviors. The exception would need to be approved either by the administrator, the administrator's designee, or a mental health professional.	The final stage language changes qualified mental health professional to mental health clinician .	The rationale for this change is discussed in Section 10 above.
740	N/A	(B) The proposal changed the individual authorized to prescribe special diets or alternative dietary schedules from the physician to a licensed health care professional, giving nurses in JDCs and other licensed health care professionals the authority to make these decisions. The proposal also added language giving the JDCs the discretion to provide special diets to residents who have used food and equipment inappropriately, resulting in a threat to facility security if approved in writing by the administrator, the administrator's designee, or a mental health professional.	The final stage language changes qualified mental health professional to mental health clinician .	The rationale for this change is discussed in Section 10 above.
780	N/A	No new requirements were added to this	The language at the final stage replaces	This change was made throughout the text to

		section in the proposed stage. Changes were made to the language to clarify that this section pertains to individual residents' personal funds and not the facility's programming funds.	<i>the facility with the facility administrator or the facility administrator's designee.</i>	clarify accountability in the relevant provisions.
790	N/A	The proposal added a parent as an individual who may consent in writing to the resident's participation in fundraising activities. The proposal also added an "as applicable," to indicate that the parent or legal guardian's written permission would not be required for those residents 18 or over.	The final stage language adds a requirement that a <i>resident's</i> consent to participate in fundraising activities also must be in writing.	This amendment adds a further protection for residents but will not significantly impact facility staff or operations.
800	N/A	The proposal added a new requirement (A)(3) to the admission process. The new language requires JDC staff to conduct a general assessment of the juvenile's physical condition before admitting the juvenile to the program. Based upon the initial assessment, the administrator or the administrator's designee may not admit into the JDC's custody a person who is (i) visibly under the influence of alcohol or drugs and deemed to require medical attention; or (ii) in need of immediate emergency medical attention. The proposal required such individuals to receive written medical clearance from a physician or QMHP in an outside medical setting before the facility administrator would be	The final stage language changes <i>QMHP to mental health clinician.</i>	The rationale for this change is discussed in Section 10 above.

		authorized to admit the resident into the facility.		
820	N/A	The proposal added language giving the facility the discretion to supplement the department-approved mental health screening instrument with additional questions or observations, as authorized in the facility's written procedures. Current guidelines require JDCs to utilize the Massachusetts Youth Screening Instrument – Second Version (MAYSI-2) as the required screening instrument. The MAYSI-2 includes a domain addressing suicide ideation, but many JDCs have supplemented the instrument with their own additional questions to assist in assessing a resident's immediacy of suicide.	The language at the final stage replaces the facility with the facility administrator or the facility administrator's designee .	This change was made throughout the text to clarify accountability in the relevant provisions.
830	N/A	The proposal made minor style edits.	*A requirement was added at the final stage that sleeping room and living unit assignment considerations must include the results of the vulnerability assessment required in Section 655 of this chapter.	*Including the results of the vulnerability assessment as a factor in determining assignments for living units and sleeping rooms bolsters resident safety by ensuring that characteristics such as sex, gender identity, sexual orientation, English language proficiency, disability, and others are considered.
860	N/A	The proposal did not include any new requirements but did make a minor technical change for clarification. This change was not altered in the final stage language.	The language at the final stage replaces the facility with the facility administrator or the facility administrator's designee .	This change was made throughout the text to clarify accountability in the relevant provisions.
890	N/A	The proposal moved the definition of "rest day" to	*The final stage proposal adds a	*This change is intended to enhance

		Section 10 and modified it to prohibit direct care staff from performing duties related to supervision (rather than related to the operation of the JDC) on their rest days. This provision was not changed in the final stage language.	requirement that direct care staff conduct visual checks on each resident at least every 30 minutes, except for residents in room restriction who are checked every 15 minutes as required by Section 1100. Changes to subsection lettering were made to accommodate this new requirement.	resident safety and security. This requirement aligns with current JDC practices and will not impose a significant burden on existing staff or operations.
900	N/A	(A) The proposal added language directing the facility to develop, implement, and document a staffing plan to ensure that the facility has sufficient staffing for the safe supervision of residents. This requirement is consistent with PREA. (B) The proposal modified the direct care employee to resident staffing ratio during activities on premises or at off-campus detention center-sponsored activities from 1:10 to 1:8 in order to comply with the standards applicable to juvenile residential facilities under PREA. PREA's juvenile facility standards mandate that every secure juvenile facility maintain staff ratios of a minimum of 1:8 during resident waking hours and 1:16 during resident sleeping hours, except in discrete exigent circumstances.	(A) The language at the final stage replaces the facility with the facility administrator or the facility administrator's designee . (B) The language at the final stage changes detention center-sponsored activities to activities approved by the facility administrator .	(A) This change was made throughout the text to clarify accountability in the relevant provisions. (B) This change is intended to clarify that the staffing ratio applies to all off-campus activities approved by the facility administrator, whether or not those activities are actually sponsored by the JDC. This is not expected to have any impact on current staffing or operations.
950	N/A	The proposal added a minor qualifier that certain health care information must be readily accessible to designated staff.	The language at the final stage replaces the facility with the facility administrator or the facility	This change was made throughout the text to clarify accountability in the relevant provisions.

			administrator's designee.	
960	N/A	The proposal made minor style edits.	The language at the final stage replaces the facility with the facility administrator or the facility administrator's designee.	This change was made throughout the text to clarify accountability in the relevant provisions.
970	N/A	The proposal corrected a misleading statement regarding § 54.1-2969. It is the consent for health care services, and not the services themselves, that must accord with this statutory section. The proposal also removed the explicit use of the term "informed consent" but retained the concept that JDCs must obtain this consent before providing health care services.	(A) The language at the final stage replaces the juvenile detention center with detention center staff.	(A) This is similar to the change to facility administrator or facility administrator's designee in that it replaces a vague subject (the juvenile detention center) with more specific accountability for the provision (detention center staff).
1010	N/A	The proposal changed the individual authorized to certify that the facility can care for a resident with a communicable disease without jeopardizing others in the facility from a licensed physician to a health care professional. The proposal also made minor style edits.	The language at the final stage replaces the facility with the facility administrator or the facility administrator's designee.	This change was made throughout the text to clarify accountability in the relevant provisions.
1020	N/A	The proposal added cross references to Sections 190 and 200 addressing suicide prevention training and made additional minor edits.	The final stage language changes qualified mental health professional to mental health clinician.	The rationale for this change is discussed in Section 10 above.
1040	N/A	The proposal modified this provision to require that JDCs maintain first aid kits in the facility and all facility vehicles used to transport residents. The proposal also imposed an imperative duty in (B) for the facility to monitor these kits in	The final stage language makes additional style edits.	These are style edits and are not substantive.

		accordance with facility procedures. Finally, the proposal clarified that these procedures must be written and made additional style edits.		
1050	N/A	The proposal struck a vague requirement that residents requiring medical attention outside the JDC be transported safely. Specific requirements for safe transport were established in Sections 630 and 635.	The language at the final stage corrects the Code citation in (A) and makes a stylistic change in (B).	These changes are a correction and a style edit and do not affect the substance of the requirements.
1060	N/A	The proposal made several changes related to medication, all of which were retained in the final text.	The language at the final stage makes additional style edits.	These are style edits and do not affect the substance of the regulation.
1070	N/A	The proposal imposed new requirements related to the behavior management program in the JDCs. All of these requirements were retained in the final text.	The final text makes several style edits.	These are style edits and do not impact the substance of the regulation.
1080	N/A	<p>(B) The proposal removed the language in this section restricting cooling-off periods to 60 minutes. This language is unnecessary, as the 60-minute cap has been incorporated into the definition of “cooling-off period” in § 10.</p> <p>(C) The proposal struck the provision directing JDC staff to document the interruption of the twelve-hour period during the resident’s scheduled sleeping hours.</p> <p>(D)(1) As with subsection C, the proposal struck the provision directing JDC staff to document the interruption of the 24-hour period during the resident’s scheduled sleeping hours, based on</p>	<p>An additional style edit was made under (B).</p> <p>(A) and (C) The word sanction has been replaced with consequence.</p> <p>* (D) This subsection has been updated to authorize the facility administrator’s designee to review a resident’s appeal to a disciplinary decision.</p>	<p>The edit under (B) was for style and does not impact the substance of the regulation.</p> <p>(A) and (C) This change aligns the terminology in the regulation with what is currently in use at the JDCs.</p> <p>* (D) Enabling the facility administrator’s designee to review resident appeals helps ensure the 24-hour deadline for a decision can be honored if the facility administrator is out of the office or otherwise unavailable for that period.</p>

		<p>the same rationale as above. The proposal also removed the provision authorizing the facility administrator to conduct their review via electronic means, as this provision was unclear.</p>		
1100	N/A	<p>The proposal required that additional information must be included in written procedures addressing “room restriction” including: 1) actions that may result in room restriction; 2) factors to consider before imposing room restriction; 3) situations that necessitate a debriefing with the resident and the parameters around such debriefing; and 4) conditions under which staff must consult with a QMHP for residents who self-injure while in room restriction. (E/F) The proposal added language requiring that for room restriction anticipated to exceed 72 hours, the medical and mental health status of the resident be assessed by a QMHP or qualified medical professional during the initial 72-hour period and on a daily basis after the 72-hour period elapses until the resident is released from room restriction. (F/G) The proposal added mental health providers to the individuals authorized to order restriction beyond 5 days. (H/I) The proposal directed the administrator to ensure that all restricted</p>	<p>(A) This text changes two references to mental health professional to mental health clinician, as in previous sections. (F) This text changes facility administrator’s designee with director’s designee. (F) and (G) This text changes references to mental health professional with mental health clinician, as in previous sections. *(I) The language in this subsection removes an exception to the daily personal contact requirement for those in disciplinary room restriction and makes a style edit.</p>	<p>(A) The rationale for this change is discussed in Section 10 above. (F) This change corrects an apparent error from the proposed text and does not change the substance of the regulation. (F) and (G) The rationale for this change is discussed in Section 10 above. *(I) The proposed stage text required that the facility administrator or the facility administrator’s designee make daily personal contact with each resident who has been placed in their room except for those residents in disciplinary room restriction. The purpose of this personal contact is to ensure that residents are confined to their rooms only for the minimum amount of time required to address the resident’s negative behavior or abate a threat. The rationale was that residents in disciplinary room restriction have undergone the disciplinary process and have been assigned to room restriction for a set period of time, therefore negating the need to</p>

		residents, except those in disciplinary room restriction, are restricted only as long as necessary to address the resident's negative behavior or threat. The proposal directed the administrator, during the daily visit, to assess and document whether nondisciplinary-restricted residents are prepared to return to general population and, for all restricted residents, whether they require a mental health evaluation.		assess how long said residents remain in room restriction. Upon further evaluation, the department determined that it would be in the best interests of residents in disciplinary room restriction to have the same daily personal contact and to have the opportunity to have their time in room restriction shortened, if appropriate, to minimize the amount of time spent in room restriction.
1105	N/A	The proposal removed this provision from § 1100 and placed it in this new § 1105, intended to address isolation solely.	(C) A change was made to remove gendered language.	(C) This is a stylistic change and does not impact the substance of the regulation.
1115	N/A	The physical restraint provisions formerly contained in Section 1090 were moved to this newly created section.	Several style changes were recommended at the final stage.	These changes are stylistic and do not impact the substance of the regulation.
1130	N/A	<p>The proposal added a new subsection (B) that, among other changes, allowed a QMHP, mental health clinician, or other qualifying licensed medical professional to terminate mechanical restraint use upon determining the restraint poses a health risk</p> <p>The proposal added a subsection (C) applicable when JDCs wish to continue using a mechanical restraint to control a resident after the initial threat necessitating the restraint is abated. In these cases, if the facility deems continued use of the restraint necessary because the resident is threatening to injure</p>	<p>*Additional references to qualified mental health professional also were changed to mental health clinician.</p> <p>Several style edits were made at the final stage.</p>	<p>*The terminology changes related to mental health clinician are discussed in Section 10 above.</p> <p>The style changes are for clarity and to conform the text to recommendations in the <i>Style Manual</i> and do not impact the substance of the regulation.</p>

		<p>himself or others, the JDC must notify a health care provider and mental health clinician or QMHP before continuing use of the restraint.</p>		
<p>1140</p>	<p>N/A</p>	<p>(A) This provision lays out requirements for staff to monitor residents when they are placed in mechanical restraints, including providing for their reasonable comfort and ensuring the resident has access to water, meals, and toilet. Staff must make contact with the resident at least every 15 minutes while in restraints. The proposal clarified this provision by replacing the reference to a “direct personal check” with a “face-to-face” check to indicate that the employee and resident must be in close proximity and staff must be able to look directly at the resident’s face to satisfy this requirement. In addition, the proposal added new language directing the employee to try to engage verbally with the resident during these checks and offering examples of permissible approaches for engagement. Finally, the proposal required a health-trained staff member to monitor the resident for signs of circulation and for injuries during each periodic check. <i>(New B)</i> –The proposal added a new subsection (B) that requires JDCs to allow residents mechanically restrained for longer than one hour to exercise each of his</p>	<p>*(A) and (B) The text proposed at the final stage creates an exception to the requirements of (A) and (B) of this section when residents are being transported offsite.</p> <p>*The term qualified mental health professional has been stricken from (C) and (D).</p> <p>Additional edits were made for style.</p>	<p>*(A) and (B) The exception introduced in these subsections acknowledges the logistical complications that hinder compliance with these requirements during vehicular transportation.</p> <p>*The removal of the term qualified mental health professional is discussed in Section 10.</p> <p>Other changes are stylistic and do not affect the substance of the regulation.</p>

		<p>limbs for at least 10 minutes every two hours in order to prevent blood clots. This is consistent with the National Commission on Correctional Health Care's Standards for Health Services in Juvenile Detention and Confinement Facilities. (B) - (New C) - The proposal amended this subsection to allow staff to consult with either a QMHP or a mental health clinician, in addition to the health care provider, when a resident is mechanically restrained for two hours cumulatively during a 24-hour period, and moves this provision to subsection (C). (New D) – The proposal moved the provision that addresses residents who exhibit self-injurious behaviors while mechanically restrained to subsection (D) and added language requiring staff to respond by whatever means appropriate to ensure the threat or harm is stabilized before consulting with the QMHP or mental health clinician. The proposal also removed the provision requiring the protocol to comply with section 1150, as that section is being repealed.</p>		
1153	N/A	<p>Rather than leaving the discretion to JDCs to decide the conditions under which restraint chairs may be used, the proposal created a new Article IV and established several new</p>	<p>(A) A change at the final stage replaces sanction with consequence. *(A) References to qualified mental health professional</p>	<p>(A) The change to consequence reflects the terminology currently in use by the JDCs. *(A) The removal of the term qualified mental</p>

		sections (§§1153 through 1159) that impose restrictions on their use. Section 1153 sets forth general provisions regarding the use of restraint chairs in JDCs. Among these: (A)(1) restraint chairs may never be used as a sanction; (A)(4) with the exception of situations in which residents volunteer to be placed in the chair, staff must notify the health authority immediately upon placing the resident in the chair, who must assess the resident's health condition or behavior and determine if he should be placed in a health unit for emergency involuntary treatment; (A)(5) for residents exhibiting self-injurious behavior while in the chair, staff must take appropriate action to stabilize the threat, consult a mental health clinician or QMHP immediately thereafter, and obtain approval for continued use; (A)(6) the health authority, mental health clinician, QMHP, or other qualifying licensed medical professional may terminate use of the chair if they determine it poses a health risk.	are stricken in multiple subsections. Additional changes were made for style and clarity.	health professional is discussed in Section 10. The style edits are for clarity and do not affect the substance of the regulatory requirements.
1154	N/A	The proposed amendments outlined in Sections 1154 and 1155 highlight the three purposes for which residents may be placed in the restraint chair.	Two changes were made to the proposed text for style and clarity.	These changes are stylistic and do not affect the substance of the regulatory requirements.
1155	N/A	Under the proposal, a JDC may use the chair for purposes other than controlled movement if:	*The term qualified mental health professional has	*The removal of the term qualified mental health professional is discussed in Section 10.

		(i) the resident's behavior presents a direct, immediate threat to himself or others; (ii) less restrictive alternatives were attempted, unsuccessfully, and (iii) the resident remains in the chair only until the threat is abated or the resident gains self-control. The proposal allows for continued restraint after the direct threat is abated if staff determines continued restraint is needed to maintain security due to the resident's credible threat to injure himself or others; however, staff must consult with and obtain approval from a QMHP or mental health clinician before continuing the restraint. When residents are placed in the chair voluntarily in accordance with an approved plan of care by a QMHP, these restrictions do not apply. The proposal also adds monitoring requirements applicable when JDCs use the chair for purposes other than controlled movement.	been stricken from (B) and (C). The final stage proposal makes numerous style edits.	These changes are stylistic and do not affect the substance of the regulatory requirements.
1156	N/A	This new provision, applicable regardless of the purpose for which the chair is used, imposes monitoring requirements on JDC staff when residents are restrained in the chair for longer than one hour.	The final stage proposal makes minor style edits.	These changes are stylistic and do not affect the substance of the regulatory requirements.
1157	N/A	In order to ensure that JDCs are complying with the regulatory provisions regarding use of the chair, the proposal subjects the JDC to a monitoring visit by	The final stage proposal makes minor style edits.	These changes are stylistic and do not affect the substance of the regulatory requirements.

		department staff for each use of the chair, regardless of the purpose or duration of the restraint. The proposal also requires the department to annually submit for the board's review and consideration, a written report outlining the results of each such monitoring visit.		
1180	N/A	The current regulation imposes certain requirements on the post-D program when a court orders post-D placement, including obtaining certain written information considered by the court during the sentencing hearing and developing a plan so that the resident can participate in local treatment programs. The proposal directed JDCs to address how the resident will be transported and by whom for such programming. The proposal made other style edits.	The final stage proposal changes sentencing hearing to dispositional hearing in (B) (1).	This change corrects the terminology used in the previous version but does not change the substance or intent of this provision.
1220	N/A	The proposal made minor style edits.	The language at the final stage changes facility to facility administrator .	This change is intended to clarify responsibility and accountability.
1270	N/A	The proposal made minor style changes by replacing references to "discharge" with, "release" and by adding explicit language clarifying that a "release" involves a release from a detention center .	The language at the final stage adds parent to the list of individuals directed to receive certain information at the time of a resident's release from postdispositional detention.	This change corrects an apparent oversight from the previous version and does not change the substance or intent of this provision.

Detail of All Changes Proposed in this Regulatory Action

List all changes proposed in this action and the rationale for the changes. For example, describe the intent of the language and the expected impact. Describe the difference between existing requirement(s) and/or agency practice(s) and what is being proposed in this regulatory change. Explain the new requirements and what they mean rather than merely quoting the text of the regulation. * Put an asterisk next to any substantive changes.

Current chapter-section number	New chapter-section number, if applicable	Current requirements in VAC	Change, intent, rationale, and likely impact of new requirements
10	N/A	<p>Definitions: The current definitions governing JDCs are provided in Section 10 (definitions) and include the following terms: annual (<i>within 13 months of previous occurrence</i>), behavior management (<i>principles employed to help residents achieve positive behavior and to address a resident's inappropriate behavior</i>); board (<i>of juvenile justice</i>); case record (<i>resident and resident's family information</i>); contraband (<i>items in a JDC that are prohibited, acquired through unapproved channels or in non-prescribed amounts or that may jeopardize facility safety and security</i>); department (<i>of juvenile justice</i>); detention center/secure juvenile detention center (<i>local, regional, or state publicly or privately operated secure custody facility, excluding JCCs, housing juveniles ordered detained</i>); direct care staff (<i>staff responsible for maintaining safety and well-being of residents and security of facility and implementing the behavior management program</i>); direct supervision (<i>working with residents without presence of direct care staff</i>); director (<i>of the department</i>); emergency (<i>unexpected occurrence demanding immediate action, excluding employee time off</i>); facility administrator (<i>individual</i></p>	<p>The <i>Form, Style and Procedure Manual for Publication of Virginia Regulations (Style Manual)</i> directs state agencies to place all definitions at the beginning of the regulation as the first numbered section. The following terms defined in other sections of the regulation were moved to Section 10 and were revised slightly for style: aversive stimuli (650 - <i>forces or substances applied to a resident that are harmful or noxious</i>); cooling-off period (1070 - <i>maximum 60-minute period during which resident placed in room or area</i>); human research (130 - <i>systematic investigation utilizing human subjects</i>), legal mail (660 - <i>written communication from or to a designated class of individuals</i>); legal representative (690 - <i>court-appointed or retained attorney and his staff or an attorney visiting for consultation on resident's request</i>); medication incident (1060 - <i>error made in administering medication to a resident</i>); physical restraint (1090 - <i>behavior intervention techniques involving physical intervention that prevent an individual from moving</i>); rest day (890 - <i>a minimum 24-hour period when direct care staff has no duties related to JDC operation, including training</i>); volunteer or intern (270 - <i>individual or group who provides services voluntarily without competitive compensation</i>); vulnerable population (655 - <i>resident determined reasonably likely to be exposed to the possibility of attack</i>).</p> <p>Substantive revisions were made to the following existing terms: -Case record - removed general reference to "record" as that term could be used to refer to various other types of records addressed in this chapter;</p>

	<p>responsible for JDC management and operation); health care record (record of medical screening, exam information, and medical service delivery); health care services (actions taken for physical and mental well-being of resident); health-trained personnel (individual trained by a licensed health care provider to perform health care screenings, review screening forms, prepare residents for sick call, and assist in implementing medical orders); individual service plan (written plan of action to meet the resident's needs), living unit (JDC residential space containing sleeping areas, toilet facilities, and living rooms); on duty (period when employee is responsible for direct supervision of residents); parent/legal guardian (certain biological or adoptive parents, persons judicially appointed as legal guardians, or persons exercising rights and responsibilities of legal custody by delegation from biological or adoptive parent); postdispositional detention program (JDC program serving residents subject to sentence or dispositional order in a JDC for period exceeding 30 days); premises (tracts of land on which a JDC is located and the buildings on the land); regulatory authority (board or department if designated by the board); resident (individual confined in a JDC); rules of conduct (list of JDC's rules or regulations); written (information is communicated in writing manually or electronically).</p>	<p>removed reference to "electronic," which is contemplated in the definition of written.</p> <ul style="list-style-type: none"> -Cooling-off period - clarified that (i) the period may be self-imposed or facility mandated, and (ii) the purpose is to calm the resident or deescalate a situation. -Health-trained personnel - removed the reference to "sick call", as that term is not defined in the regulation. -Human research - revised to comply with the revisions to Chapter 170 that took effect in December 2016. -Individual service plan - removed the general reference to "service plans" as unnecessary and the duplicative required elements of an individual service plan, as this information is outlined in § 1200. -Legal representative - clarified that the term includes a visiting consulting attorney if requested by the parent of a minor resident. -Living unit - references to "sleeping areas" in this definition replaced with "sleeping rooms." -Medication incident - modified to exclude a facility's failure to administer medication due to repeated unsuccessful attempts to obtain the medication. -On duty - expanded to include any time in which an employee is responsible for the performance of their duties. -Premises - clarifies that the premises of a JDC include only the tracts of land within the secure perimeter, thereby excluding buildings on the JDC campus that may fall outside the secure perimeter. -Rest day - expanded to allow residents to perform duties other than those involving supervision on rest days (e.g., training). -Volunteer or intern - revised to clarify that volunteers or interns are under the direction and authority of the JDC. -Vulnerable population - revised to clarify that the JDC staff must determine whether a resident is "vulnerable," and to remove the explicit examples of residents that may be considered "vulnerable." Examples are now in Section 655. <p>Non-substantive style changes were made to the following terms currently set out in the definitions section: behavior management, contraband, director, emergency, on duty, regulatory</p>
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			<p>authority, rules of conduct, and written.</p> <p>Additionally, the following definitions for undefined terms used throughout the existing regulation or referenced in the proposed amendments were added: contractor (<i>individual in a contractual agreement with a JDC to directly and regularly serve residents</i>); disciplinary room restriction (<i>room restriction as a consequence for rule violation after application of the disciplinary process</i>); full search (<i>removal of clothing and visual inspection of all body parts, including vaginal and anal cavity areas, to detect contraband or injuries</i>); mechanical restraint (<i>approved mechanical device that involuntary restricts the freedom of movement, including flex cuffs, handcuffs, leather restraints, leg irons, restraining belts and straps, waist chains, and anti-mutilation gloves, but excluding mechanical restraint chairs</i>); mechanical restraint chair (<i>approved chair that restricts freedom of movement or voluntary functioning of body parts</i>); mental health clinician (<i>a clinician licensed to provide assessment, diagnosis, treatment planning, treatment implementation, and similar clinical or counseling services, or a license-eligible clinician providing services under the supervision of a licensed mental health clinician</i>); protective device (<i>approved device placed on part of a resident's body to protect the resident or staff from injury</i>); room restriction (<i>resident is restricted involuntarily to sleeping room to ensure safety or security or hold resident accountable for a rule violation</i>); and spit guard (<i>protective device designed to prevent communicable disease spread resulting from spitting or biting</i>).</p> <p>*The new term mental health clinician replaces references to qualified mental health professional (QMHP) in the relevant sections of the chapter.</p>
20	N/A	<p>Applicability: This section identifies the nine parts that make up this chapter. Part IX applies to JDCs operating post-D programs for residents that meet certain requirements.</p>	<p>The proposal strikes the redundant description of post-D programs, as this information is established in the post-D program definition. The proposal also adds post-D detention without programs. These change will have no impact.</p>

30	N/A	<p>Previous regulations terminated: This section outlines the regulatory chapters that were replaced when the department revised its JDC regulations in 2014.</p>	<p>Repealed. These chapters were part of a previous regulatory iteration, and reference to them is unnecessary. The proposal will have no additional impact.</p>
40	N/A	<p>Certification: (A) JDCs must comply with Chapter 20, which addresses certification of DJJ-regulated programs/ facilities. (A)(3) JDCs must ensure that their regulatory noncompliance will not immediately or directly endanger residents.</p>	<p>(A) The proposal modifies the reference to certification regulations in Chapter 20 to mirror the title of the existing Certification Regulations and expressly requires JDCs to maintain a current certification demonstrating compliance with Chapter 20's requirements.</p> <p>(A)(3) This vague provision could be perceived as encouraging facility noncompliance with regulatory requirements. The proposal strikes this unnecessary provision. This change is not expected to significantly impact operations. JDCs are required to comply with applicable regulatory provisions unless a variance has been approved by the board. Ensuring that noncompliance with regulatory requirements does not immediately or directly endanger residents will not relieve JDCs of their regulatory obligation and will not prevent them from having to take corrective action if such noncompliance is discovered on audit or during a monitoring visit.</p>
45	N/A	<p>Contracts between juvenile detention centers and separate entities: This provision addresses JDCs that agree to house residents under custody of separate entities (e.g., federal government). For these arrangements, the agreement must require the JDC to be subject to the department's certification regulations and must give the department the same access to the resident and his records and reports as all other juveniles detained in the JDC. This provision is a result of a fast-track regulatory action effective August 22, 2019, and addresses a gap in the department's certification authority that previously prevented it from interviewing</p>	<p>*The proposal adds new requirements directing that such agreements be in writing, that JDCs provide immediate notification to the department upon entering into such agreements, and that they provide a copy of the written agreement to the department. This provision will ensure that the department is aware of these arrangements immediately and is able to verify that the agreement contains the proper provisions. The proposal will enable the Certification Unit to monitor the program and assess compliance with the department's regulations.</p> <p>Because this proposal addresses contractual arrangements, the proposal is not expected to have a significant impact on facility operations.</p> <p>Note: Due to legislation enacted during the 2020 General Assembly Session</p>

		and accessing records of residents detained in JDCs but under the custody of a separate entity.	(2020 Acts of Assembly, Chapter 595), the board shall establish separate regulations for youth housed in these federal programs. To carry out this statutory mandate, the department has convened an interagency committee that is working to draft a separate set of regulatory provisions applicable specifically to youth in these programs.
50	N/A	Relationship to the regulatory authority: JDCs must provide the board with information necessary to establish compliance with this chapter.	The proposal mandates submission of this information to the audit team leader, rather than to the regulatory authority, consistent with the current mandate in Chapter 20. This amendment will have no additional impact.
60	N/A	Relationship with the department: This section establishes guidelines for when the director must be notified of changes at the detention center.	Language was added to (A) and (B) to clarify that the required timeframes for reporting information to the director are in business days. This is a clarifying change and does not impact residents, staff, or facility operations. The proposed text includes additional style edits.
70	N/A	Variations: A JDC facility administrator may request a variance to relieve the JDC from meeting certain regulatory requirements. Chapter 20 indicates that variations are available only for noncritical regulatory requirements.	The proposal expands the scope of the provision so that it also addresses waivers and amends the catchline to reflect this change. The proposal clarifies that variations may be granted solely for noncritical regulatory requirements and provides the complete citation to Chapter 20. The proposal also adds a new subsection (C) that describes the director’s authority to issue waivers to noncritical regulatory requirements pending the board’s determination on a variance. These amendments are intended to closely mirror requirements in Chapter 20 and will have no additional impact.
80	N/A	Serious incident reports: (A) Within 24 hours after an incident occurs, the JDC must report serious incidents to the CSU, either the parent or legal guardian, and the director or his designee. The SIRs must accord with the department’s procedures. (B) JDCs must notify the director or his designee within 24 hours of any events detailed in subsection A, and any other events required by the regulatory authority, if the facility has been notified.	(A) The proposal removes the mandate to report these events in accordance with the department’s procedures . This requirement is invalidated due to the 2016 Virginia Code Commission regulation (1VAC7-10-140) prohibiting agencies from incorporating their own documents into regulations by reference. JDCs must comply with the department’s guidelines as standalone documents. The proposal also strikes an unnecessary catchline that had been included for reference purposes during development. The text adds the use of the mechanical restraint chair by facility staff for any reason to the list of serious incidents that must be reported within 24 hours. The amendment

	<p>(C) If a resident death occurs at the facility, the administrator or designee shall must notify the parents or legal guardians of all residents at the facility provided the notification does not violate confidentiality or jeopardize law-enforcement or child protective services investigations or the prosecution of any related criminal case.</p> <p>(D) JDCs must prepare an SIR that includes the name or identifying information of the person who notified the applicable CSU and the parent or legal guardian. Currently, the report need not identify who notified the director.</p> <p>(E) JDCs must maintain a written reference in the resident’s record that an incident occurred, as well as all applicable reports regarding the incident.</p>	<p>conforms this section to Section 1153 pertaining to the use of the chair and related reporting requirements.</p> <p>(B) The proposal removes the director notification requirement in subsection B, as this requirement is captured under subsection A.</p> <p>(C) and (D) Changed the facility to the facility administrator or the facility administrator’s designee. In numerous places throughout the regulation, the facility is used as a vague subject. For example, in (C) of this section, “...the facility shall notify the parents or legal guardians, as appropriate...” This language does not convey who, exactly, is responsible for carrying out these regulatory requirements, so the department recommends more specific language where the facility has been used this way. In most cases, the facility administrator or the facility administrator’s designee has been used, although, in a few places, facility staff was deemed more appropriate.</p> <p>(D) The proposal adds language requiring the individual completing the SIR to include in the report the date and time on which the notifications were provided to the director, CSU, and parent or legal guardian. This change will assist the JDCs in demonstrating compliance with the requirements regarding serious incidents. The department has updated its database to comply with this provision. Thus, this change is not expected to have an additional impact.</p> <p>(E) The proposal eliminates the requirement that the resident’s record contain a written reference of this information. JDCs are expected to input this information into the department’s data system; therefore, it is not necessary to mandate by regulation that this information be included in the resident’s record.</p> <p>The proposal makes minor edits for style purposes. None of these changes are expected to have a significant impact on residents, staff, or facility operations.</p>
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90	N/A	<p>Suspected child abuse or neglect: (A) When staff reasonably suspect a resident is being abused or neglected, the existing regulation requires that they report the matter immediately to the local DSS. (C) Cases of suspected child abuse or neglect must be reported and documented.</p>	<p>(A) The proposal expands the entities to which these cases may be reported to include the state DSS's toll-free child abuse and neglect hotline.</p> <p>(C) The proposal clarifies that, for purposes of this regulatory requirement, the duty attaches when a resident is neglected or abused; thus, there is no affirmative duty on staff to report child abuse witnessed, for example, away from the JDC or committed on non-resident youth. The proposal also makes minor edits for style. These changes provide guidance to JDC staff to enhance compliance and are not expected to impact significantly residents, staff, or the facility.</p>
95	N/A	<p>Reporting criminal activity: (A) JDCs must have written procedures requiring staff to notify the administrator of all known resident or staff criminal activity. The provision enumerates several examples of applicable criminal offenses that must be reported to the facility administrator. (B) Upon receiving this information, the administrator must notify the proper persons or agencies, including applicable law enforcement or CPS agencies, and must cooperate with the investigation. The administrator must report offenses related to the health and safety or human rights of residents to the director or designee. (C) JDCs must assist with investigation of these complaints, as necessary.</p>	<p>(A) The proposal strikes the examples of offenses that must be reported to the facility administrator. The existing language requires all known criminal activity be reported, rendering the list of examples superfluous. *The proposal also expands the duty to report to include known criminal activity suspected to have been committed by residents or staff, provided the staff making the report knows the activity is of a criminal nature, and requires that JDC procedures shall require staff to <i>self-report</i> to the facility administrator any arrests or criminal charges. This change is intended to enhance safety and security for residents by making the requirements for reporting real or alleged criminal activity more robust. The language also was edited for style.</p> <p>(B) The proposal removes the mandate that health, safety, and human rights violations be reported to the director or designee, as this information must be reported to DJJ under the current regulation. Upon receipt of this information, DJJ can determine whether offenses are sufficiently serious to warrant notice to the director. This proposal seeks to provide clarity and promote consistency with reporting requirements elsewhere in this chapter and, in turn, may increase compliance. The proposal is not expected to impact operations significantly.</p>

			(C) The proposal limits the JDC’s duty to cooperate with investigation of these complaints based on any restrictions in federal or state law.
100	N/A	Grievance procedure:	The proposal makes minor edits for style and clarification, including in (A) (3) the addition of language to reinforce that responses to grievances must be documented in accordance with the facility’s written procedures.
110	N/A	Responsibilities of the governing authority: (A) JDCs must identify their governing authorities clearly. (C) JDCs must have written decision-making plans that provide for a staff person to assume temporarily the responsibility of operating the JDC.	(A) The proposal clarifies that the identification must be in writing . This is consistent with the department’s longstanding interpretation of this provision. (C) The proposal clarifies that this temporary responsibility attaches in the absence of the facility administrator. These changes are intended to provide clarity and will have no additional impact.
130	N/A	Participation of residents in human research: (A) JDCs must have written procedures approved by their local governing authorities governing the review, approval, and monitoring of human research (defined as an investigation involving as the subject, a resident, or his parents, guardians, or family members, that may expose the subject to physical or psychological injury and that departs from established and accepted therapeutic methods appropriate to meet the individual’s needs. This provision does not reference the separate Human Research regulation, set out in Chapter 170 (Regulation Governing Minimum Standards for Juvenile Information Requests from and Research Involving Human Subjects within DJJ), nor the statute governing human research in Virginia. (C) As part of their written procedures, JDCs may require periodic progress reports of any research project and a formal final report of all completed research projects.	(A) The proposal allows JDCs to use residents as subjects of human research only in accordance with Chapter 170 of the Department’s regulations and Chapter 5.1 (Human Research) of Title 32.1 of the Code of Virginia. The proposal amends the definition of “human research” to conform to the definition provided in Chapter 170 of the regulations, and moves the definition to Section 10 of this regulation. The proposal adds language explicitly prohibiting the testing of medicines or drugs for experimentation or research. (C) The proposal adds a general clause authorizing JDCs to implement written procedures governing human research in their facilities, provided the procedures are consistent with the Human Research regulations set out in Chapter 170 and the statutory provisions set out in Chapter 5.1 of the Code of Virginia. Furthermore, it strikes the provisions related to progress reports as that authority is covered in Chapter 170. These proposed changes will expressly subject DJJ-regulated facilities to the same regulatory requirements as JCCs when outside entities are seeking to utilize these residents as subjects of human research requests or data requests.

140	N/A	Job descriptions: (B) JDCs must provide a copy of the job description to each person prior to assuming their duties.	The proposal makes nonsubstantive changes that replace the reference to “before” with “prior to” and clarify confusing language.
150	N/A	Qualifications: JDCs that are not subject to rules and regulations of their governing authorities or local government personnel offices must follow DHRM’s minimum entry level qualifications.	The proposal strikes this requirement, as DHRM no longer has policies establishing minimum entry level qualifications for employees. This change will have no additional impact.
280	152	Selection and duties of volunteers and interns	The proposal reorganizes several provisions related to personnel matters by moving these sections elsewhere in the regulation in order to make the regulation easier to navigate. The provision addressing the selection of volunteers and interns, originally set out in Section 280 of this regulation has been repealed and moved to this section. The provisions addressing selection, orientation, training, and background checks for volunteers and interns will no longer be contained in a separate article, but will be addressed under the applicable article governing such matters for employees and contractors. The proposal makes additional minor edits for style, which will have no additional impact.
155	N/A	Employee tuberculosis screening and follow-up:	The proposal makes minor edits for style.
170	N/A	Employee and volunteer background checks: This provision imposes background check requirements on individuals who: (i) accept employment at a JDC, (ii) volunteer regularly and will be alone with residents in a JDC, or (iii) provide contractual services directly and regularly to a resident and will be alone with the resident in a JDC. These individuals must undergo a host of background checks, including fingerprint checks with the state police and FBI, before assuming their JDC duties. (B) JDCs may hire employees pending the results of the fingerprint checks, but until all background checks are returned, the employee may not be alone with a resident and	The proposal removes the reference to volunteers and contractors, thus limiting the application of this provision to employees in JDCs. To promote clarity and enhance understanding, new sections are being added that will separately address background checks for contractors (§175), and volunteers and interns (§177). This section will now apply solely to employees at JDCs. This is a format change that will not impact residents, staff, or facility operations. (B) The proposal amends the existing restriction applicable to employees hired under the fingerprint exception by prohibiting them from working directly with residents until all required background checks are satisfied; however, because the position would have been vacant previously, this amendment is not expected to have a significant tangible impact on facility operations or resources.

		may work only with residents being directly supervised by staff who have completed required background checks.	(E) Finally, the proposal explicitly prohibits JDCs from employing persons who have been convicted of certain barrier crimes listed in Code of Virginia § 19.2-392.02, subject to the exceptions in Code of Virginia § 63.2-1726. As this is a current statutory provision, this change will have no additional impact.
170	175	Contractor background checks: Section 170 currently requires individuals who provide contractual services directly to residents and will be alone with a resident to undergo a host of background checks.	The proposal moves the background check requirements for contractors, formerly set out in Section 170, into this new section. This change will not impact residents, staff, or facility operations. The provision has been conformed to mirror the changes in Section 170 by explicitly prohibiting JDCs from bringing on contractors who have been convicted of the applicable barrier crimes. This is reflective of current law and will have no additional impact.
290	177	Background checks for volunteers and interns: Section 290 currently requires individuals who volunteer or intern regularly in a JDC and will be alone with a resident to undergo a host of background checks. Documentation of compliance with the background checks must be maintained for each intern and volunteer for whom a background check is required. JDCs that use volunteers or interns must have procedures for supervising persons who have contact with residents if background checks are not required or are not complete.	The proposal repeals Section 290 and moves these requirements into a new Section 177 as part of the reorganization of the provisions. This change will have no additional impact. The provision has been conformed to mirror the changes in Section 170 by explicitly prohibiting JDCs from taking on volunteers or interns who have been convicted of the applicable barrier crimes. This provision is reflective of current law and will have no additional impact.
180	N/A	Required initial orientation: This provision addresses the initial orientation requirements for full-time, part-time, and relief staff, as well as contractors, volunteers, and interns serving residents on a regular basis. (A) JDCs must provide initial orientation to such employees and contractors in accordance with the position’s job descriptions. (B) Lists specific topics to be covered during orientation, including B 8, the basic	As part of the effort to reorganize the personnel provisions and ensure that the requirements for each profession are enumerated clearly, this proposal removes the references to orientation requirements for contractors, volunteers, and interns set out in subsections A and C of this provision. The proposal creates new sections that address the orientation requirements for contractors (§ 185) and volunteers (§ 187). This is a format change that will not impact residents, staff, or operations. (B)(8) A change was made to eliminate gendered language.

		requirements necessary to perform the job. (C) Volunteers and interns must be oriented in accordance with Section 300 (volunteer and intern orientation and training).	
N/A	185	Required initial orientation for contractors: Section 180 requires that JDCs provide initial orientation to all contractors who provide services to residents on a regular basis <i>in accordance with the position's job description</i> . Section 510 requires contractors to be oriented in their responsibilities in implementing the evacuation plan in emergencies.	As part of the reorganization of the personnel provisions, the proposal creates a new section 185 that addresses the orientation topics and requirements applicable solely to contractors. This new provision incorporates the orientation requirements for contractors regarding their duties in implementing the evacuation plan currently set out in Section 510. It also replaces the existing mandate directing JDCs to orient contractors in accordance with their job descriptions with a requirement that they receive an initial orientation regarding the expectations of working within a secure environment. This change gives clear direction to JDCs and is consistent with a similar change made to the JCC regulations (Chapter 71), but it is not expected to have a significant impact on facility operations, staff, or residents.
300	187	Required initial orientation for volunteers and interns: (A) Volunteers and interns must receive basic orientation on: the facility; its population; its basic objectives; security, population control, emergency, emergency preparedness, and evacuation procedures; confidentiality; residents' rights; and the requirements for volunteers and interns to perform their duties. (B) Volunteers and interns must receive training within 30 days from their start date on 1) procedures regarding their duties and 2) duties during a facility evacuation.	As part of the reorganization of the personnel provisions, the proposal creates a new section 187 that addresses the orientation topics and requirements applicable solely to volunteers and interns that are currently set out in Section 300, which is being repealed as part of the reorganization. (B) The proposal strikes subsection B in its entirety and moves those provisions in that section related to training requirements to a new section (§ 197) which addresses required initial training for volunteers and interns. These are formatting changes and will not impact residents, staff, or facility operations.
190	N/A	Required initial training: This provision addresses the initial training requirements for full-time and part-time employees and relief staff, as well as contractors providing services that require professional licensure (e.g., contract nurses), and volunteers and interns.	As part of the effort to reorganize the personnel provisions, the proposal removes the references to volunteers and contractors in order to limit the application of this provision solely to employees in JDCs. New sections have been added to address initial training requirements for contractors (§ 195) and volunteers and interns (§ 197) separately.

		<p>(B) No more than 30 days after the employee’s start date at the facility or before the employee is responsible for the direct supervision of a resident, all direct care staff and staff who provide direct supervision of the residents must complete training in certain specified areas.</p> <p>(B)(4) Among the required topics on which employees must be trained are the facility’s behavior intervention procedures, including physical and mechanical restraint training.</p> <p>(C) Requires that employees who are authorized by the facility to restrain a resident shall be trained in the use of the facility’s approved restraint techniques within 90 days of being authorized to restrain.</p> <p>(D) Provides that employees who administer medication shall successfully complete a medication management training program approved by the Board of Nursing or be licensed by the Commonwealth to administer medication.</p> <p>(E) Provides that employees who perform the duties required in Section 800 shall be trained in those requirements.</p>	<p>(B) The proposal clarifies that the training requirement imposed within 30 days following the employee’s start date is applicable to direct care staff as well as staff responsible for the direct supervision of residents. This change is intended to provide clarification and is not expected to have any additional impact on residents, staff, or facility operations.</p> <p>*(B)(4) The proposal provides that training on the use of protective devices, the mechanical restraint chair, room restriction, and disciplinary room restriction must be covered during the behavior intervention procedures training, in addition to training on the utilization of physical and mechanical restraints . The proposal ensures that applicable staff will receive proper, sufficient training to supervise residents who are placed in a restraint chair, wearing protective devices, or placed on room restriction.</p> <p>Style edits were made in subsections B, C, and D.</p> <p>*(D) Replaced “certified” with “licensed.” This change corrects an error indicating that an employee may administer medication if certified to do so by the Commonwealth. The employee must, in fact, be licensed by the Commonwealth.</p> <p>(E) Added the phrase “before performing these duties.” This is a clarifying change and does not impact the existing requirement or current practice.</p>
<p>190 (A) (2)</p>	<p>195</p>	<p>Required initial training for contractors: Section 190 (A) (2) requires contractors to receive training to perform their position responsibilities in a JDC. Section 190(E) declares that for contractors providing services for which licensure by a professional organization (e.g., Board of Nursing) is required, documentation of current licensure constitutes compliance with the training requirements.</p>	<p>As part of the reorganization of the personnel provisions, the proposal creates a new section 195 to address training requirements applicable solely to contractors, as currently set out in section 190. These are format changes and will not impact residents, staff, or facility operations.</p>

300	197	<p>Required initial training for volunteers and interns: Volunteers and interns must be trained within 30 days from their start date at the facility on: 1) procedures applicable to their duties and responsibilities and 2) their duties in an evacuation.</p>	<p>As part of the reorganized personnel provisions, the proposal creates a new section 197 to address training requirements applicable solely to volunteers and interns. The provisions in § 300(B) related to volunteer and intern training have been incorporated in this section. These are format changes that will have no additional impact.</p>
200	N/A	<p>Retraining: This provision addresses annual or other retraining requirements for full-time, part-time, and relief employees. Subsection C requires direct care staff to receive training on various topics, including behavior intervention procedures. Subsection D requires staff approved to apply physical restraints to be trained as needed to maintain current certification. *Subsection E requires staff approved to apply mechanical restraints to be retrained annually, in accordance with similar requirements set out in the mechanical restraints provision (6VAC35-101-1130). Subsection F directs employees responsible for medication administration to complete an annual refresher training, but does not identify topics for this training. Under subsection G, when a contractor provides services necessitating professional licensure, documentation of current licensure is deemed compliance.</p>	<p>(B) The proposal corrects an erroneous citation for the regulatory provisions governing emergency and evacuation procedures.</p> <p>(C) The proposal clarifies that the behavior intervention procedure training must include training on room restriction and disciplinary room restriction.</p> <p>(D) The proposal corrects the citation from 6VAC35-101-1090 to 6VAC35-101-1115.</p> <p>*(E) The proposal expands the training requirement to staff approved to apply protective devices or the mechanical restraint chair and directs such staff to receive training in accordance with the applicable restraint chair or protective device provisions.</p> <p>(F) The proposal adds language clarifying that the medication administration training must include, at a minimum, a review of the components required in § 1060 related to medication (e.g., medication incidents, medication administration records, medication refusals, etc.). This guidance will ensure some uniformity in training among JDCs. An additional style edit also is made.</p> <p>(G) The proposal removes subsection (G) in its entirety, as the training requirements for professionally licensed contractors are established in Section 195 and do not need to be reiterated here.</p>
210	N/A	<p>Written personnel procedures: JDCs must have written personnel procedures approved by the governing authority or facility administrator, developed, implemented, and readily accessible to staff.</p>	<p>The proposal reorganizes the requirements related to personnel procedures to reflect more accurately the order for this process. The procedures are developed, approved by the governing authority or facility administrator, then implemented and made available to staff. This proposal is</p>

			not expected to impact residents, staff, or operations as most JDCs are adhering to this schedule in developing and implementing their personnel procedures.
240	N/A	Notification of change in driver’s license status: Staff whose job responsibilities may involve transporting residents must report to the facility administrator or the facility administrator’s designee changes in their driver’s license statuses, including but not limited to suspensions, restrictions, and revocations.	The proposal makes minor edits for style purposes. Notably, the proposal removes the “including, but not limited to” language in order to reflect 1VAC7-10-30 of the Virginia Code Commission’s regulations. Under that provision, the word “includes” means “includes, but not limited to.”
250	N/A	Political activity:	The proposal makes minor style edits.
260	N/A	Physical or mental health of personnel: This section discusses the physical and mental health of employees and determining their fitness for duty.	This section is edited for style and clarity. “The facility” is amended to read, “The facility administrator or the facility administrator’s designee.” The rationale for this change is discussed at Section 80 above.
270	10	Definition of volunteers or interns:	Repealed. Definition moved to § 10.
280	152	Selection and duties of volunteers and interns:	Repealed. Content moved to § 152.
290	177	Background checks for volunteers and interns	Repealed. Content moved to § 177.
300	187 and 197	Volunteer and intern orientation and training	Repealed. Content moved to § 187 (required initial orientation for volunteers and interns) and 197 (required initial training for volunteers and interns). Content reordered for style purposes.
310	N/A	Personnel records: (A) JDCs must maintain separate, current written or automated personnel records on every employee and volunteer or intern who requires a background check. (B) Employee personnel records must consist of several documents, including, for example, written material with the individual’s name, phone number, and other information; annual performance evaluations; documentation of required reference checks; and a current job description.	(A) The proposal removes the alternative to maintain automated personnel records, as the definition of written encompasses hard copies as well as electronic information. (B) The proposal removes the directive that the employee personnel record consist of annual performance evaluations. This requirement is unnecessary from a regulatory perspective. This proposal will impact staff and operations minimally. Additionally, the proposal makes several minor edits for style purposes, including replacing the word phone with telephone .
330	N/A	Maintenance of residents’ records: (A) JDCs must maintain separate written or automated case records for each resident.	(A) The proposal removes the alternative to maintain automated case records, as the definition of written encompasses electronic records.

		The proposal addresses health records in subsections (B) and (C).	(B) and (C) The proposal replaces the references to “health records” with the proper term that is listed and defined in § 10, “health care records.” The proposal makes additional non-substantive edits, none of which will impact JDC operations.
340	N/A	<p>Face sheet: JDCs must ensure that a completed face sheet, containing certain required information, be completed and placed in each resident’s record at admission. The face sheet must include the names, addresses, and telephone numbers of the applicable CSU, emergency contacts, and parents or legal guardians.</p> <p>*Specifically, (A)(1) requires that the face sheet contain the resident’s full name, last known residence, birth date, birthplace, sex, race, unique numerical identifier, religious preference, and admission date.</p>	<p>*The proposal adds gender identity and primary and preferred languages to the list in (A) (1) of information gathered at the time of a resident’s admission. The department decided it is important to collect this additional information to improve services provided to youth and to enhance safety and security. Staff must know a resident’s gender identity in order to comply with certain requirements in the Prison Rape Elimination Act, and this information also can be helpful in determining whether the resident should be considered a member of a vulnerable population. Knowing whether the resident is proficient in English and/or whether the resident prefers to communicate in another language informs what language services, if any, will be required to help ensure the resident is aware of their rights and the facility’s expectations for their behavior. This change makes a minimal increase in the information JDC staff must include on the resident’s face sheet. The proposal also removes the requirement to include the applicable CSU address on the face sheet. The CSU name will continue to be identified on the face sheet and will reference the applicable CSU district. Therefore, it is not necessary to include the address on the resident’s face sheet. This proposal is expected to reduce, minimally, the recordkeeping requirements for JDC staff.</p>
350	N/A	Buildings and inspections:	The language replaces the facility with the facility administrator or the facility administrator’s designee to clarify accountability in the relevant provisions. The proposal also makes several style edits.
360	N/A	Equipment and systems inspections and maintenance: JDCs must inspect, test, and maintain all safety, emergency, and communications equipment and systems in accordance with the manufacturer’s recommendations. The facility	*The proposal amends the process to require the facility administrator to identify in written procedures critical safety, emergency and communications equipment and systems that are subject to the requirements of this section. The proposal also requires the facility administrator to establish the testing intervals for this equipment and these

		must conduct testing of this equipment and these systems at least quarterly.	systems in the written procedures. This proposal will give facility administrators the discretion to determine what equipment is critical for the safe operation of JDCs and to reduce the burden of quarterly testing equipment which is not deemed critical. The proposal makes several style edits.
370	N/A	Alternate power source: JDCs must have access to an alternate power source for use in an emergency.	The proposal makes a nonsubstantive change to provide that the power source must be available to maintain essential services in an emergency.
380	N/A	Heating and cooling systems and ventilation: JDCs must ensure that a temperature no less than 68°F is maintained in all rooms occupied by residents unless otherwise mandated by state or federal authorities. They must provide air conditioning or mechanical ventilating systems in all rooms occupied by residents if the temperature in the room exceeds 80°F.	The proposal adds clarifying language mandating that the requirement to provide air conditioning applies unless otherwise mandated by state or federal authorities. This amendment is intended to ensure that the requirements set out in this section are consistent, and is not expected to have any additional impact on residents, staff, or operations.
400	N/A	Plumbing and water supply; temperature: JDCs must maintain water temperatures at 100°F to 120° F.	The proposal adds clarifying language that this provision applies to hot water temperatures. This proposal will not impact residents, staff, or operations.
410	N/A	Drinking water: For JDCs constructed after January 1, 1998, all sleeping areas must have fresh drinking water.	The proposal makes a technical change to replace the reference to sleeping areas with sleeping rooms. This will provide clarification and reduce confusion, as these two terms are used interchangeably in the existing provision. The proposal will not impact residents, staff, or the facility.
420	N/A	Toilet facilities: (A) JDCs constructed or modified on or after January 1, 1998, must have toilet facilities available in all sleeping rooms. (B) JDCs must have one toilet, one hand basin and one shower or tub for every eight residents if the JDC was constructed on or before December 27, 2007, and one toilet, one hand basin, and one shower or tub for every four residents for facilities constructed or modified on or after December 28, 2007. (D) This subsection directs the maximum number of staff members on duty in a living unit	*(A) The proposal amends the language to require one toilet and one hand basin in all sleeping rooms in JDC buildings constructed or structurally modified on or after January 1, 1998. This proposal reflects current facility design and will not have an additional impact. *(B) The proposal amends the ratio of showers or bathtubs to residents in facilities constructed on or after December 28, 2007, to require one shower or tub for every five, rather than four, residents. Because hand basins and toilets will be required in every sleeping room under the proposal, the provision strikes these items from the required ratios listed in § 420(B). This proposal will give localities seeking to construct new

		to be counted in determining the required number of toilets and hand basins when a separate staff bathroom is not provided.	JDCs or renovate existing facilities additional space for programming and may decrease construction or facility operational costs. *(D) The proposal strikes this requirement. All existing facilities have separate staff restrooms, so this requirement is unnecessary. This change is not expected to impact residents or staff.
430	N/A	Sleeping areas: (A) This subsection requires males and females to have separate sleeping rooms. (C) Sleeping quarters established, constructed, or modified after July 1, 1981, must meet certain height and square footage requirements.	* (A) The proposal strikes this requirement. Currently, all JDCs have only single-occupancy rooms based upon requirements elsewhere in DJJ regulations, and any JDCs constructed in the future would reasonably be expected to have the same. Additionally, Section 830 requires that sleeping room assignments be made according to a written plan, taking into consideration a number of factors including a resident's individual characteristics and the results of the vulnerability assessment required by Section 665. A resident's sex and/or gender would be included in those considerations. These requirements provide the necessary parameters for room assignments and make the language in subsection A unnecessary. Subsection lettering is adjusted accordingly. The proposal also replaces the reference to "sleeping areas" in the catchline and "sleeping quarters" in subsection (C) (now (B)), with "sleeping rooms." These changes will promote consistency within the regulation and reduce confusion, as the terms, "sleeping areas" and "sleeping quarters" are used interchangeably to refer to sleeping rooms. The proposal also makes several minor edits for style purposes. The proposal is not expected to impact residents, staff, or facility operations.
460	N/A	Smoking prohibition: JDC staff and visitors are prohibited from using tobacco products, including cigarettes, cigars, pipes and smokeless tobacco, such as chewing tobacco or snuff in areas of the facility or	*The proposal expands the prohibition to include contractors, volunteers, and interns, and amends the list of prohibited items to include additional tobacco products and nicotine vapor products as defined in Code of Virginia § 18.2-371.2 and in alignment with language approved by the board for the state's juvenile

		the premises where residents may see or smell the product.	correctional center(s). Using language already in the Code of Virginia provides greater clarity to this provision and reduces the risk of confusion or misinterpretation. Aligning the provision more closely with the language approved by the Board for the JCCs helps ensure consistency between the JDCs and JCCs in addressing this issue. The proposal also explicitly prohibits residents from using, possessing, purchasing, or distributing tobacco or nicotine vapor products. This proposal will help to ensure that residents do not gain access to these products.
470	N/A	Space utilization: (A) (7) - JDCs must be equipped with a central medical room with medical examination facilities developed and equipped in consultation with the health authority. (C) Spaces may be used for multiple purposes as long as they remain functional for the designated purpose.	The proposal makes minor technical edits to reduce confusion and promote clarity. In (A)(7) the proposal replaces medical examination facilities with medical exam rooms or spaces , so as to discourage the interpretation that JDCs are required to have separate buildings to carry out their medical examination functions. The change will not have an impact. In (C), an additional edit replaces the phrase utilized interchangeably with used for multiple purposes . This change is intended to improve the clarity of the language and is not substantive.
480	N/A	Kitchen operation and safety:	The proposal makes minor style edits.
490	N/A	Maintenance of the buildings and grounds:	The proposal makes minor style edits.
500	N/A	Animals on the premises: JDCs that maintain animals on the premises must ensure that they are housed a reasonable distance from sleeping, living, eating, and food preparation areas, and a safe distance from water supplies. JDCs must provide pets with clean sleeping areas and adequate food/water.	*In order to give facility administrators the discretion to allow for animal training or animal therapy services within the facility, the proposal removes the mandate that animals maintained on the premises be housed a reasonable distance from sleeping and living areas. The existing restrictions would hinder a JDC's ability to implement these programs.
510	N/A	Emergency and evacuation procedures: JDCs must develop emergency preparedness and response plans, which must address the provision of a planned, personalized means to evacuate residents who use wheelchairs or other mechanical devices to provide assistance with walking. All	*The proposal expands this provision to require the facility to plan for (and train staff on) the evacuation of any individual who might be in the facility at the time and who has a disability of any sort (rather than limiting the plan to nonambulatory residents). This proposal will ensure that facilities have plans in place and that staff are trained adequately to address emergency situations that may call for the evacuation of disabled residents, visitors,

		staff must receive training regarding these evacuation procedures.	volunteers, or others who happen to be in the facility during an emergency. The amendment may require some additional planning on the part of JDC staff but is not expected to impact staff or operations significantly. The language also replaces the facility with the facility administrator or the facility administrator's designee to clarify accountability in Sections A and I. The proposal also makes several additional amendments for style.
520	N/A	Control center: Each JDC must have a control center secured from residents' access and staffed 24 hours a day.	The proposal clarifies that the control center must be staffed seven days a week as well as 24 hours/day.
530	N/A	Control of perimeter:	The proposal makes a minor style edit.
540	N/A	Escapes:	The proposal makes several style edits.
550	N/A	Contraband:	The proposal makes several style edits.
560	N/A	Searches of residents: (A) – (C) JDCs must have written procedures that govern resident searches, including strip searches and body cavity searches. The existing regulation does not define “strip searches” for these purposes. Strip searches and visual cavity inspections must be conducted and, if witnessed, witnessed: (i) by staff/witnesses of the same sex as the resident being searched, and (ii) in an area that guarantees privacy. Subsection B required that searches be conducted by a staff member of the same sex as the resident.	<p>*The proposal strikes all previous language in this section and replaces it with new language to make the new text easier to read. Many of the requirements are the same, but the provisions are restructured, and there are a few substantive changes:</p> <p>(A)-(C) The proposal replaces all references to “strip searches” in this section with “full search” in order to reflect the nomenclature that has been adopted in many JDCs in Virginia. A definition for full search has been added to Section 10 that incorporates the commonly understood concepts of strip searches and that includes visual inspections of vaginal and anal cavities.</p> <p>*(A) While the language at the final stage still requires JDCs to have written procedures governing resident searches, the new text establishes as outright requirements the specific items JDCs had been required to include in their procedures under this subsection. These requirements now constitute subsection B. The department determined that these three provisions were of sufficient importance to merit the direct requirements.</p> <p>*(B) The proposal removes the requirement that searches be conducted only by staff members of the same sex as the resident. PREA prohibits cross-</p>

			<p>gender searches of residents. The current language requiring that searches be conducted by staff of the same sex as the resident had the potential to conflict with PREA if the resident being searched is transgender. Since JDCs are subject to specific PREA audits, and since the federal requirements contained in PREA supersede any conflicting state requirements, the department determined that DJJ’s regulation should be silent on this issue and should instead focus on ensuring residents’ privacy, safety, and dignity.</p> <p>*(C) As above, the requirement that staff members performing searches be of the same sex is removed. To enhance protections for residents, this provision is expanded to include both full searches and visual inspections of the vagina and anal cavity areas, and a new requirement is added that a staff witness be present. While the presence of a staff witness could be seen as an infringement on resident privacy, the department determined the safety interests of the youth outweigh any privacy concerns raised by adding this requirement.</p>
570	N/A	Communications systems: JDCs must have a means for communicating between the control center and living areas .	The proposal replaces the reference in this section to “living areas” with “living units” to reflect the terminology used throughout the regulation and defined in § 10. This change is intended to provide clarification and reduce confusion, and will not impact facility operations.
580	N/A	Telephone access and emergency numbers: JDCs must have an emergency telephone number where staff may be contacted 24 hours/day.	The proposal makes a minor technical edit to clarify that the staff person must be accessible through the emergency telephone number seven days a week and 24 hours a day.
600	N/A	Weapons:	The proposal makes minor style edits.
610	N/A	Area and equipment restrictions: JDCs must have written procedures governing the inventory and control of security, maintenance, recreational, and medical equipment.	*The proposal removes recreational equipment from this list, based on the contention that it is unnecessary to have a regulation addressing the inventory of recreational equipment. This proposal will reduce the burden on JDC staff to maintain such inventories.
620	N/A	Power equipment: The facility shall develop and implement written safety rules for the use and maintenance of power equipment.	The language changes the facility to the facility administrator or the facility administrator’s designee to clarify accountability. The proposal also makes other style edits.

630	N/A	<p>Transportation: JDCs must:</p> <p>(A) have transportation available or make the arrangements for routine and emergency transportation;</p> <p>(B) have written safety rules for resident transportation and vehicle use; and</p> <p>(C) have written procedures that provide for the verification of appropriate licensure for staff with duties involving resident transportation.</p>	<p>(A) The proposal adds a new subsection A containing the general rule that this provision governs transportation unless otherwise specified in § 635.</p> <p>The proposal replaces the reference in subsection (B) related to “routine transportation” with “facility-approved transportation.” This minor change is intended to provide additional guidance and will not impact staff responsibilities or facility operation. The proposal retains all of the remaining existing provisions in § 630.</p> <p>*The proposal adds specific language lifted from Part I of the Guidelines for Transporting Juveniles in Detention, which were issued by the Board in 2004 to establish administrative and safety guidelines local JDC staff must follow when transporting or allowing others to transport residents outside the JDC. Specifically, the proposal adds the following requirements:</p> <ul style="list-style-type: none"> • JDCs are responsible for transporting their detained residents to local medical and dental appointments and local psychological and psychiatric evaluations but are not required to transport them to appointments outside Virginia’s geographical boundaries or more than 25 miles, one way, from the facility. <ul style="list-style-type: none"> ○ If the JDC transports the resident to a local dental or medical appointment, the staff is not obligated to pay costs associated with the appointment, unless provided for by agreement. ○ The JDC may require notice of the date and time of the local appointment at least 72 hours in advance. • JDCs may assign internal staff or contract with an agency to transport detained juveniles. • If the resident requires a meal during transport, the JDCs must provide a bagged lunch, if feasible. • JDCs must send with the transporting staff any medication the juvenile will require while in transit.
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			<ul style="list-style-type: none">• Juveniles may not be transported with an adult(s) suspected of or charged with a criminal act.• If an emergency renders the transporting vehicle inoperable, the individual conducting the transport must notify his agency immediately and contact local law enforcement for assistance, if necessary.• If the resident absconds during transport, the JDC staff conducting the transport must report this immediately.• When JDC medical staff conclude in writing that a resident's medical condition can be treated without him attending a routine or previously scheduled appointment, the JDC is only required to transport the resident if ordered by a court.• A juvenile who was confined in a JDC immediately before a court hearing must be returned to the JDC until DJJ completes the commitment packet and arranges transportation and may not be transported to a JCC's intake unit directly from court. <p>As these requirements are part of existing Guidelines that, until 2016, were incorporated by reference into the regulation and have been in place for JDCs since 2004, these provisions will have no additional impact on residents, staff, or facility operations.</p> <p>*In addition to including the Guideline provisions, the proposal adds language in response to legislation introduced during the 2018 Virginia General Assembly Session that would have required the board to promulgate regulations addressing transportation of residents from department-regulated facilities and requiring such regulations to address a suicide watch instrument during resident transportation. The language requires JDCs, when allowing a third party to assume temporary custody of the resident for purposes of transportation, to provide the transporting party with a written document identifying pertinent information known to the JDC regarding the resident's immediate medical needs or mental health condition that reasonably could be considered necessary for his safe</p>
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			<p>transportation and supervision. Specifically, the information should include any of the resident's recent suicidal ideations or attempts. Such information must remain confidential in accordance with state law and regulations. This new requirement is intended to ensure that pertinent medical information is relayed to those parties responsible for transporting juveniles. The change may result in additional recordkeeping or documentation burdens for JDC staff but will create additional safeguards while residents are being transported.</p> <p>The proposal also adds a provision requiring the rules related to staff and resident ratios, searches, mechanical restraints, and communications during transit to accord with the existing regulatory provisions in this chapter.</p> <p>Finally, the proposal makes minor style edits and corrects a regulatory citation (C)(3). These are style edits and a correction and do not impact the substance of the regulation.</p>
N/A	635	N/A	<p>*Transportation of violent, disruptive, or youth traveling to specified destinations. The proposal adds this new section containing provisions lifted from Part II of the Guidelines for Transporting Juveniles in Detention (See discussion of Section 630). Part II of the Guidelines addresses the transportation of violent and disruptive JDC residents and residents traveling to certain other destinations. The following provisions are added:</p> <ul style="list-style-type: none"> • Only JDC staff or law enforcement, excluding the State Police, may transport violent and disruptive juveniles. • The CSU responsible for supervising the resident or agency or parent seeking placement is responsible for transporting a resident to a residential placement pursuant to §16.1-294 of the <i>Code</i>. • The chief judge of the juvenile court must designate an appropriate agency to transport detained nonviolent and nondisruptive juveniles traveling: (i) across

			<p>jurisdictional boundaries or more than 25 miles from the JDC, one way, with some exceptions; ii) to other states; iii) to other secure JDCs or jails, with some exceptions; iv) to a law enforcement agency for interrogation; v) to funerals, death bed visits and other extreme circumstances; v) to other places determined by the court; and vii) to other specified places.</p> <ul style="list-style-type: none"> • Transportation of post-D juveniles must be designated by individual court order, by standing order, or by court approval of the plan for treating the post-D resident. • When a court commits a juvenile to a mental hospital or training center for observation, the committing court shall designate the appropriate law enforcement agency, other than State Police, to transport the juvenile. <p>As these requirements are part of existing Guidelines that, until 2016, were incorporated by reference into the regulation (<i>see Section 640 discussion</i>) and have been in place for JDCs since 2004, these provisions will have no additional impact on residents, staff, or facility operations.</p> <p>Additional minor changes are for style and to correct a citation to the Code of Virginia (E).</p>
640	N/A	<p>Transportation of residents; transfers to department: This section currently addresses the transportation of residents outside the JDC and resident transfers from a JDC to DJJ. This concept is reflected in the catchline.</p> <p>(A) JDCs must transport residents in accordance with the Guidelines for Transporting Juveniles in Detention, which were issued by the board pursuant to <i>Code of Virginia</i> § 16.1-254.</p> <p>(B) If a resident is transported from a JDC to the department, the JDC must send all information pertaining to the resident’s medical, educational, behavioral, and family</p>	<p>Detention center transfers to department.</p> <p>(A) The proposal strikes the requirement that residents be transported in accordance with these guidelines, as this constitutes an impermissible incorporation of the department’s guidelines by reference in violation of 1VAC7-10-140(D). The provisions of the department’s guidelines have been included explicitly in Section 630 under this proposal (See Section 630 discussion).</p> <p>(B) Subsection (B) is intended to address instances in which a resident is transferred to a JCC (by virtue of commitment to DJJ), rather than transported. As such, the proposal replaces the reference to transported in § 640(B) to transferred. This change is intended to provide clarification and will not impact residents, staff, or facilities.</p>

		<p>circumstances during the resident’s stay in detention.</p>	<p>This change, along with the eradication of § 640(A), necessitates modifying the catchline to remove reference to transportation, since transportation is addressed fully in § 630. The section catchline has been changed to “Detention center transfers to department.”</p>
650	N/A	<p>Prohibited actions: Currently, JDC staff may not subject residents to certain conditions and are prohibited from engaging in certain behaviors. For example, staff may not deprive residents of drinking water or food necessary to meet their daily nutritional needs, opportunities to bathe, access to toilet facilities, or opportunities for sleep or rest. Similarly, staff may not administer laxatives, enemas, or emetics. The regulation permits exceptions for each of these prohibitions when ordered by a licensed physician for a legitimate medical purpose. (A)(3) – JDC staff may not deny residents contacts and visits with their attorneys, probation officers, the regulatory authority, a supervising agency representative, or representatives of other agencies or groups required by applicable statutes. (B) Employees, volunteers, and interns must be trained on these prohibited actions.</p>	<p>*The proposal changes the individual authorized to order an exception to these otherwise prohibited behaviors from a licensed physician to a licensed health care professional. The objective is to give nurses working in JDCs similar authority to order these exceptions. (A)(3) – The proposal strikes the reference to probation officers in this provision, as they are captured under the existing reference to “a supervising agency representative.” This change is not expected to impact residents, staff, or operations. *(B) The proposal amends this subsection to require that volunteers and interns be given a basic orientation on prohibited actions, rather than full training. This change corrects an inconsistency with the requirement in the existing § 300 that directs volunteers and interns to receive orientation regarding the prohibited actions. The proposal updates the cross-references to reflect the new catchlines, replaces general references to the resident’s record, with the resident’s “health care record,” and makes other minor style edits. These changes will not impact residents, staff, or facility operations.</p>
655	N/A	<p>Vulnerable population: (A) JDC facilities must implement procedures for assessing whether residents are “vulnerable,” and therefore need heightened supervision, additional safety precautions, or separation from other residents. Vulnerable population is defined in subsection (C) as a resident or group of residents determined reasonably likely to be exposed to attack or harm. The definition lists various examples that may indicate that a resident is “vulnerable” for</p>	<p>The proposal strikes the definition for vulnerable population contained in subsection C and moves it to § 10 pursuant to the <i>Style Manual</i>. The definition no longer lists the examples of factors that may indicate that a resident is “vulnerable” for these purposes. Rather, the proposal adds language in subsection A expressly indicating that these examples are factors that may be considered in determining whether a resident is vulnerable. The proposal also adds language in subsection A indicating that a resident’s own views with respect to the resident’s safety must be considered. This is consistent with the</p>

		these purposes (e.g., very young, limited English proficiency, LGBTQ, etc.).	<p>PREA mandate (§ 115.342) regarding transgender and intersex residents. These changes are not expected to impact significantly residents, staff, or facility operations.</p> <p>The language also replaces <i>the facility</i> with <i>the facility administrator or the facility administrator's designee</i> to clarify accountability in the relevant provisions.</p>
660	N/A	<p>Residents' mail: (B) When based on legitimate interests of facility order and security, JDC staff may read, censor, or reject nonlegal mail in accordance with written procedures. The resident shall be notified when incoming or outgoing letters are withheld in part or in full.</p> <p>(D) Staff are prohibited from reading outgoing mail unless the facility administrator or designee has determined there is a reasonable belief that security is threatened or with court permission.</p> <p>(F) If the resident requests, postage and writing materials must be provided for outgoing legal correspondence and at least two other letters per week.</p> <p>(G) First-class letters and packages received for residents who have been transferred or released must be forwarded.</p> <p>(H) Written procedures governing resident correspondence must be reviewed annually and updated as needed.</p>	<p>*(B) The proposal replaces the general mandate that residents be notified when such mail is withheld in part or in full with a requirement that they be notified when such letters are withheld or redacted as appropriate. The amendment is intended to acknowledge those instances in which notifying the resident that the letters have been withheld or otherwise suppressed would serve to threaten facility safety or security or compromise an investigation.</p> <p>(C) The definition of legal mail was moved to Section 10.</p> <p>(D) The text was edited to remove gendered language.</p> <p>(F) The proposal clarifies that postage and writing materials must be provided, at the resident's request, for unlimited outgoing legal mail.</p> <p>*(G) The proposal clarifies that these letters and packages must be forwarded to the resident's last known address or forwarding address or returned to the sender. This proposal provides JDCs with additional guidance on how to dispose of this mail and will impact only staff and discharged residents. The proposal also makes additional minor edits for style.</p> <p>*(H) The proposal strikes as unnecessary the requirement to review this information annually and to update it as needed. There is no similar regulatory requirement for procedures addressing other topics. This change will free up staff to address other issues within the JDC.</p>
670	N/A	Telephone calls:	The proposal makes minor style edits.
680	N/A	Visitation:	The proposal makes minor style edits.

690	N/A	<p>Contact with attorneys, courts, and law enforcement: This section grants residents the right to have uncensored, confidential contact with their legal representative in writing, by mail, or by phone. Subsection A defines legal representative as a court-appointed or retained attorney or a paralegal, investigator, or other representative from that attorney’s office or an attorney visiting for a consultation, on a resident’s request.</p>	<p>*The proposal moves the definition of legal representative to § 10 to comply with the <i>Style Manual</i>.</p> <p>*The proposal also expands the definition of legal representative now contained in § 10 to include an attorney visiting for the purpose of a consultation if requested by the resident’s parent if the resident is a minor. The proposal makes a number of additional edits for style. This proposal has the potential to increase the number of individuals deemed legal representatives.</p>
700	N/A	<p>Personal necessities: (D) JDCs must clean or change resident’s washcloths, towels, and bed linens at least once every seven days or more often if necessary. Staff must use bleach or another sanitizing agent approved by the EPA to destroy bacteria in laundering such linens and table linens.</p>	<p>The proposal strikes the reference to table linens in subsection (D) as unrelated to this section. Table linens are addressed in § 480 (kitchen operation and safety) and have no relevance to this section. This change will not impact residents, staff, or operations.</p>
710	N/A	<p>Showers: Residents must be given the opportunity to shower daily. This provision does not allow for any exceptions.</p>	<p>*The proposal allows a JDC, through written procedures, to grant an exception to this general rule in order to maintain facility security or to manage residents with maladaptive behaviors. The exception would need to be approved either by the administrator, their designee, or a mental health professional. This proposal is intended to acknowledge those extenuating circumstances that may necessitate depriving a resident of his daily shower. The proposal would also make the JDC regulation more closely resemble the existing JCC regulatory provision governing showers in 6VAC35-71-610. Finally, qualified mental health professional is changed to mental health clinician as discussed in Section 10 above.</p>
730	N/A	<p>Residents’ privacy: Generally, when residents are bathing, dressing, or toileting, they must have privacy from sight supervision by members of the opposite sex. Medical personnel performing medical procedures or staff helping residents who have physical or mental disabilities that necessitate such supervision</p>	<p>The proposal amends the provision to clarify that the justification must be included in the resident’s health care record.</p>

		are excused from this provision, provided it is justified in the resident's record.	
740	N/A	Nutrition: (B) JDCs must provide special diets or make alternative dietary schedules available for residents if prescribed by a physician or necessary to observe a resident's established religious dietary practices.	*(B) The proposal changes the individual authorized to prescribe special diets or alternative dietary schedules from the physician to a licensed health care professional. This will give nurses in JDCs and other licensed health care professionals the authority to make these decisions. The proposal also adds language giving the JDCs the discretion to provide special diets to residents who have used food and equipment inappropriately, resulting in a threat to facility security if approved in writing by the administrator, his designee, or a mental health clinician. This will allow staff greater discretion in ensuring facility safety.
770	N/A	Recreation: JDCs must have recreation programs scheduled so as not to conflict with meals, religious services, educational programs or other regular events . Recreation programs must include regularly scheduled indoor and outdoor recreational activities. Outdoor recreation will be available whenever practicable consistent with the program.	The proposal strikes the reference to "other regular events." This provision is vague and has not enhanced compliance among JDCs. The proposal replaces "will" with "shall" in this provision in order to emphasize that there is an imperative duty on JDCs to ensure that outdoor recreation is available whenever practicable. These edits are minor and are intended to enhance compliance and provide additional guidance to staff in JDCs. The changes are not expected to impact facility operations significantly.
780	N/A	Residents' funds: JDCs may use a resident's funds solely for the benefit of the resident; for payment of his fines, restitution, costs, or support ordered by a court; or to pay restitution to the facility for damaged property or personal injury. Subsection A requires the facility to develop and implement written procedures for safekeeping and recordkeeping related to residents' funds.	The proposal adds a qualifier to clarify that the funds referred to in this section are the individual resident's personal funds, such as funds obtained through the resident's paid work assignments, and are not the facility's programming funds. This additional language is consistent with DJJ's interpretation in the Compliance Manual, which has been in effect since 2014 and is not expected to impact residents, staff, or operations. The language also replaces the facility with the facility administrator or the facility administrator's designee to clarify accountability.
790	N/A	Fundraising: JDCs may not use residents in fundraising activities without the resident's consent and the written permission of the resident's legal guardian.	*The proposal adds a parent as an individual who may consent in writing to the resident's participation in these fundraising activities. The proposal also adds an "as applicable," to indicate that the parent or legal guardian's written

			<p>permission would not be required for those residents 18 or over. *The language also adds a requirement that a resident's consent to participate in fundraising activities must be in writing. This corrects an oversight in the previous version. These changes will not impact residents, staff, or operations significantly.</p>
800	N/A	<p>Admission and orientation: JDCs must have written procedures that govern the process for admitting residents and orienting them to the detention center. (C) JDCs must conduct orientation for residents before assigning them to housing units or rooms. (D) The staff performing admission and orientation must be trained before engaging in these duties.</p>	<p>*(C) The proposal strikes the directive that the orientation occur before assigning the resident to a housing unit or room. For many JDCs, this requirement is logistically challenging, given the hour that some residents arrive to the facility and other complications that may arise. Eliminating this requirement will give administrators the discretion to determine the resident's housing assignment before orientation.</p> <p>(D) The proposal removes, as extraneous, the language related to training, as this requirement is set out in Section 190 (required initial training for employees).</p> <p>*Finally, the proposal adds a new requirement (A)(3) to the admission process. The new language requires JDC staff to conduct a general assessment of the juvenile's physical condition before admitting the juvenile to the program. Based upon the initial assessment, the administrator or his designee may not admit into the JDC's custody a person who is (i) visibly under the influence of alcohol or drugs and deemed to require medical attention; or (ii) in need of immediate emergency medical attention. The proposal requires such individuals to receive written medical clearance from a physician or mental health clinician in an outside medical setting before the facility administrator may admit him into the facility. This additional language helps ensure that individuals experiencing a medical crisis receive medical attention before they are admitted.</p>
810	N/A	<p>Residents' personal possessions:</p>	<p>The proposal makes minor style edits.</p>
820	N/A	<p>Mental health screening: JDC residents must undergo mental health screenings pursuant to § 16.1-248.2 to determine their suicide risk level and need for a</p>	<p>*The proposal adds language that gives the facility administrator or their designee the discretion to supplement the department-approved mental health screening instrument with additional</p>

		<p>mental health assessment. The mental health screening must include: (1) a preliminary screening at admission, including a structured interview and observation, as provided in facility procedures; and 2) the administration of an objective, department-approved mental health screening instrument within 48 hours of admission.</p>	<p>questions or observations, as authorized in the facility’s written procedures. Current DJJ Guidelines require JDCs to utilize the Massachusetts Youth Screening Instrument – Second Version (MAYSI-2) as the required screening instrument. The MAYSI-2 includes a domain addressing suicide ideation, but many JDCs wish to supplement the instrument with their own additional questions to assist in assessing the immediacy of a resident’s suicide threat or risk. Because there is nothing in the current regulation explicitly prohibiting the provision of this additional information as part of the mental health screening, this proposal is not expected to have any additional impact on residents, staff, or facility operations.</p>
830	N/A	<p>Classification plan: This section establishes the factors staff must consider when assigning residents to sleeping rooms and living units.</p>	<p>*A requirement is added that the vulnerability assessment required in Section 655 of this chapter must be a consideration in determining sleeping room and living unit assignment. This change bolsters resident safety by ensuring that characteristics such as sex, gender identity, sexual orientation, English language proficiency, disability, and others are considered.</p> <p>The proposed language also includes minor style edits.</p>
840	N/A	<p>Discharge: The existing regulation sets out the requirements and conditions for resident discharges. The regulation uses the terms “discharge” and “release” interchangeably.</p>	<p>In order to reduce confusion, the proposal replaces references to “discharge,” including in the catchline, with “release.” The proposal makes additional style edits. These changes will not impact residents, staff, or operations.</p>
860	N/A	<p>Structured programming: JDC facilities must implement a structured daily routine designed to meet the objectives of any individual service plan.</p>	<p>The proposed language replaces <i>the facility</i> with <i>the facility administrator or the facility administrator’s designee</i> to clarify accountability. The proposal also makes a minor technical change for clarification. JDCs must develop service plans solely for those residents participating in a post-D program. The proposal adds language indicating that the requirement to satisfy the service plan’s objectives applies solely where applicable (i.e., where residents have a service plan in place). This change provides clarity and is not expected to impact residents, staff, or operations.</p>
870	N/A	<p>Written communication between staff; daily log:</p>	<p>(A) The proposed language replaces <i>the facility</i> with <i>the facility administrator or</i></p>

		<p>(A) The facility must implement procedures for a daily log or other written communication between staff and residents.</p> <p>(B) The date and time of the entry and identity of the scribe must be recorded.</p> <p>(C) If the log is electronic, entries must post the date, time, and name of the scribe. The computer must prevent previous entries from being overwritten.</p>	<p>the facility administrator’s designee to clarify accountability.</p> <p>*(B) The proposal retains the requirement regarding the date and time of the entry, but gives the JDC the discretion to establish the manner by which the individual making entries must be identified. This is a procedural issue that should be addressed in written procedures. The proposal will allow facilities to determine how best to document the recorder’s identification (e.g., for a single log entry versus each log entry, etc.) and may minimally reduce the time expended to document these events.</p> <p>*(C) The proposal acknowledges this new discretion by providing that, to the extent the facility’s log is electronic, all entries must be made in accordance with the new requirements in § 870(B).</p>
880	N/A	<p>Additional assignments of direct care staff: (B) Residents in JDCs may not have sole responsibility for support functions, including, but not limited to food service, maintenance of building and grounds, and housekeeping. The implication is that residents may participate in these activities, provided other individuals, presumably non-direct care personnel, have primary or some shared responsibility.</p>	<p>The proposal adds language expressly permitting residents to assist in support functions, provided they are part of the established structured program. This clarifies the provision and is consistent with DJJ’s current interpretation in its Compliance Manual. Thus, the change is not expected to have any additional impact on residents, staff, or operations. The proposal removes food service from the list of examples of duties for which a resident may not be solely responsible. Under § 480 of the current regulation, residents are strictly prohibited from working in the JDC’s food service, and no exceptions are permitted. Because the change reflects language in an existing regulatory provision, the change will not impact residents, staff, or operations.</p>
890	N/A	<p>Staff supervision of residents: (B) Direct care staff may not be on duty and responsible for the direct care of residents for more than six consecutive days without a rest day except in an emergency. Rest day means a period of not less than 24 consecutive hours during which a staff person is not responsible for performing operational duties in a JDC,</p>	<p>*The proposal moves the definition of “rest day” to § 10 to comply with the Style Manual and modifies the definition by prohibiting direct care staff from performing duties related to supervision, rather than related to the operation of a JDC, on their rest days. This change will permit direct care staff to participate in training and other activities on their rest days, as long as the activity does not involve supervising residents. This will benefit administrators who struggle with the logistics of scheduling</p>

		<p>including participation in applicable trainings. (H) JDCs must implement written procedures governing the transportation of residents outside the JDC and across jurisdictions.</p>	<p>training for various full-time, part-time, and relief staff and assist them in ensuring that staff are adequately and timely trained. The provision may impose additional burdens on direct care staff whose facility administrators opt to allow training on rest days.</p> <p>*The proposed language also adds a requirement at (C) that direct care staff conduct visual checks on each resident at least every 30 minutes, except for residents in room restriction who are checked every 15 minutes as required by Section 1100. Changes to subsection lettering are made to accommodate this new requirement. This change is intended to enhance resident safety and security. This requirement aligns with current JDC practices and will not impose a significant burden on existing staff or operations.</p> <p>H) The requirements regarding written procedures and transportation outside JDCs have been incorporated into the revised § 630 (Transportation of residents), rendering this provision duplicative.</p>
<p>900</p>	<p>N/A</p>	<p>Staffing pattern: (A) During resident’s scheduled hours awake, at least one direct care staff member must be awake, on duty, and responsible for supervising every 10 residents on the premises or participating in off-campus, JDC-sponsored activities.</p>	<p>*(A) The proposal adds language directing the JDC to develop, implement, and document a staffing plan to ensure that the facility has sufficient staffing for the safe supervision of residents. This requirement is consistent with PREA.</p> <p>*(B) The proposal modifies the direct care employee to resident staffing ratio from 1:10 to 1:8 in order to comply with the standards applicable to juvenile residential facilities under PREA. PREA’s juvenile facility standards mandate that every secure juvenile facility maintain staff ratios of a minimum of 1:8 during resident waking hours and 1:16 during resident sleeping hours, except in discrete exigent circumstances. Retaining the existing provision would render the regulation in conflict with PREA. JDCs are required to comply with PREA and undergo a separate PREA audit to determine compliance. However, to the extent a facility fails to meet these staffing requirements, it may be deemed noncompliant in its PREA audit as well as the state certification audit. Therefore, this</p>

			<p>provision may create additional burdens for facilities that are not in compliance with the explicit PREA provisions addressing staffing ratios. The proposal also replaces <i>participating</i> with <i>attending</i> in subsection (B) so that it in the unlikely event that a resident is off campus and merely attending but not participating in an event, the JDC would still need to meet the staffing ratios. The language also changes detention center-sponsored activities to activities approved by the facility administrator. This change is intended to clarify that the staffing ratio applies to all off-campus activities approved by the facility administrator, whether or not those activities are actually sponsored by the JDC. This is not expected to have any impact on current staffing or operations. The proposal makes other minor edits for style.</p>
920	N/A	<p>Work and employment: (A) Paid and unpaid chores must accord with the resident’s age, health, ability, and individual service plan. (B) Chores shall not interfere with school programs, study periods, meals, or sleep. (C) The facility administrator or designee must evaluate the appropriateness of the work and fairness of the pay for work assignment and resident employment opportunities.</p>	<p>*(A) The proposal removes the requirement that these chores accord with the resident’s service plan. This requirement is unnecessary and can impede a JDC’s ability to impose chores as a behavior management tool or for other purposes. *(B) The proposal broadens the provision prohibiting interference with school programs, study periods, meals, or sleep to include paid work assignments, in addition to unpaid assignments. (C) The proposal limits the facility administrator’s duty to evaluate the appropriateness of work and fairness of pay to external employment opportunities for residents. This change seeks to reflect facility practices and is not expected to have additional impact.</p>
930	N/A	<p>Health authority: Every JDC must have a health authority responsible for organizing, planning, and monitoring the provision of resident health care. Eligible individuals may include physicians, nurses, nurse practitioners, government authorities, health administrators, health care contractors, or health agencies.</p>	<p>*The proposal adds “psychiatrist” to the list of individuals who may be designated as a “health authority.” While most JDCs do not have psychiatrists on staff, this provision will give JDCs that are currently employing psychiatrists and those who elect to do so in the future, greater discretion in determining which position is best suited to serve as the facility’s health authority.</p>
940	N/A	<p>Provision of health care services: Nurses must provide treatment consistent with</p>	<p>The proposal removes the reference to other health-trained personnel, as the manner and level of care that these</p>

		Virginia’s laws and regulations governing nurses, and other health-trained personnel must provide care within their level of training and certification.	individuals must provide is established in § 960 of the regulation. This change will not impact residents, staff, or operations.
950	N/A	Health care procedures: (A) Facilities must have written procedures related to health care. (B) JDCs must ensure that certain written information about every resident (e.g., contact information for physician, dentist, and relative) is readily accessible to staff to respond to medical or dental emergencies.	(A) The language adds the facility administrator or the facility administrator’s designee to clarify accountability. (B) The proposal adds a minor qualifier that such information must be readily accessible to designated staff. This change will compel facility administrators to determine which staff members would require this information to respond to medical and dental emergencies and ensure that this information is readily accessible to such staff in medical crises. The proposal mirrors the language in the JCC regulation. The proposal makes other minor style edits. These changes are not expected to significantly impact residents, staff, or operations.
960	N/A	Health-trained personnel: (B) requires the facility to retain documentation of the training received by health-trained personnel.	The language replaces the facility with the facility administrator or the facility administrator’s designee to clarify accountability. The proposal makes minor style edits.
970	N/A	Consent to and refusal of health care services: (A) Health care services must be provided in accordance with § 54.1-2969 of the <i>Code of Virginia</i> .	(A) The proposal corrects the misleading statement regarding § 54.1-2969. It is the consent for health care services, and not the services themselves, that must accord with this statutory section. The proposal also removes the explicit use of the term “informed consent” but retains the concept that JDCs must obtain this consent before providing health care services. These are nonsubstantive changes that will not impact residents, staff, or operations. The language also replaces the juvenile detention center with detention center staff . This is similar to the change to facility administrator or facility administrator’s designee in that it replaces a vague subject (the juvenile detention center) with more specific accountability for the provision (detention center staff).
980	N/A	Health screening at admission: (A) Residents must undergo a preliminary health screening immediately upon	*(A) The proposal removes the requirement that the preliminary health screening occur immediately upon admission. The purpose of this

		admission consisting of a structured interview and observation by health care or health trained personnel. (B) If an admitted resident poses a health or safety threat, the resident must be separated from the general population but must receive comparable services.	amendment is to give the facility some leeway if circumstances prevent the JDC from conducting the screening immediately. *(B) The proposal clarifies that for residents who are determined to pose a health or safety threat to themselves or others, the separation from general population need persist only for as long as the resident remains a risk. This change is intended for clarity and not expected to further impact residents, staff, or facilities.
990	N/A	Tuberculosis screening:	The proposal makes minor style edits.
1000	N/A	Residents' medical examination; responsibility for preexisting conditions: This section addresses the requirements for a resident's initial physical exam upon admission. Generally, residents must receive an initial physical within five days of admission unless there is documented evidence of a complete health exam within the previous 90 days. In these cases, the physician or qualified health care practitioner must review the resident's health record and update as necessary.	The proposal makes a minor edit to clarify that the record that the physician or qualified health care practitioner must review or update as necessary is the resident's health care record. This is consistent with the terminology used throughout the regulation. This change clarifies existing language and will not impact residents, staff, or facilities. Additionally, the proposal adds language addressing the information that must be collected and included as part of the resident's physical exam, as currently set out in § 1030. This section speaks to the requirements for residents' health care records. As this change reflects current duties, it will have no additional impact.
1010	N/A	Infectious or communicable diseases: A resident with a communicable disease may be housed in the general population only if a licensed physician certifies that the facility can care for the resident without jeopardizing others in the facility and knows the necessary treatment and procedures to protect residents and staff.	*The proposal changes the individual authorized to make this certification from a licensed physician to a health care professional. The objective is to allow other licensed health care professionals, such as nurses, to make this determination. The language also replaces <i>the facility</i> with <i>the facility administrator or the facility administrator's designee</i> to clarify accountability. The proposal makes other minor edits for style and clarification that will not impact residents, staff, or the facility.
1020	N/A	Suicide prevention: JDCs must have written procedures providing for a suicide prevention and intervention program developed in consultation with a qualified medical or mental health professional and providing that	The proposal adds cross references to §§ 190 (required initial training for employees) and 200 (retraining requirements for employees), the two training sections that address suicide prevention and makes additional minor edits. The language also changes <i>qualified mental health professional</i> to <i>mental health clinician</i> . The rationale for

		all direct care staff be trained and retrained in the program.	this change is discussed in Section 10 above.
1030	N/A	Residents' health care records: In furtherance of the objective of addressing health care records, subsection B of this section enumerates the content that must be included in the report completed when the resident obtains a physical pursuant to § 1000, such as information regarding the resident's vision and hearing exams, nutritional requirements, and restrictions on physical activities.	The proposal moves the specified content that must be included as part of the resident's physical examination report into § 1000, which is specific to the resident's physical and, therefore, directly applicable to this section. The proposal replaces references to "health record" with "health care record" consistent with the terminology used elsewhere in the regulation. The proposal makes additional minor edits for style purposes. These non-substantive revisions will not impact residents, staff, or operations.
1040	N/A	First aid kits: (A) Every JDC must maintain a well-stocked first aid kit and inventory of its contents. The kit must be readily accessible to address residents' minor injuries and medical emergencies. (B) First aid kits <i>should</i> be monitored in accordance with established facility procedures.	*The proposal modifies the provision to require that JDCs maintain such kits in the facility and all facility vehicles used to transport residents. This change may result in additional expenses for those facilities that maintain a fleet of vehicles for resident transportation and do not maintain first aid kits in these vehicles. *(B) The proposal replaces the reference to "should" in this subsection with "shall," in order to impose an imperative duty on the facility, rather than a recommendation, to monitor the kits in accordance with facility procedures. The proposal also clarifies that these procedures must be written and makes additional style edits that are not expected to have a significant impact on residents, staff, or facility operations.
1050	N/A	Hospitalization and other outside medical treatment of residents: When residents require medical attention outside the JDC, they must be transported safely. (A) requires that a facility staff member or law-enforcement officer accompany a resident who requires medical care outside the facility except for residents being transferred under the Psychiatric Inpatient Treatment of Minors Act (§16.1-355 (sic)).	*The proposal strikes this vague requirement. The newly added provisions addressing transportation of residents outside JDCs (§§ 630 and 635) set out specific rules related to the safe transportation of residents (e.g., prohibition against transporting juveniles with adults charged with a criminal act, mandate to inform third party transporters of resident's immediate medical needs and mental health condition, etc.). The removal of this vague requirement is not expected to have a significant impact. The proposal corrects the citation in (A) to §16.1-335 and makes other edits for style.
1060	N/A	Medication: (A) All medication shall be securely locked, except	*(A) The proposal modifies the provision to clarify that the exception applies if

		<p>(i) as required by 6VAC35-101-1250 (delivery of medication in post-D programs) or (ii) if otherwise ordered by a physician individually for keep-on-person or equivalent use. (H) If a medication incident or adverse drug reaction occurs, staff must promptly contact a poison control center, pharmacist, nurse, or physician and take actions as directed. (K) Disposal and storage of unused, expired, and discontinued medications must accord with applicable laws and regulations.</p>	<p>authorized rather than required in written procedures pursuant to 6VAC35-101-1250. That section gives facilities with residents in post-D placements for longer than 30 days the discretion to establish in written procedures whether these residents will be permitted to self-medicate. This change is intended to provide clarification and will not impact residents, staff, or facilities. *(H) The proposal adds hospitals to the list of entities a JDC may contact in response to a medication incident or adverse drug reaction. The proposal also strikes the definition for medication incident and places it in § 10 in accordance with the Style Manual.</p> <p>*(K) The proposal expands this provision to include medical implements, in addition to medications to provide guidance as to how to address the disposal of medical implements. The proposal makes a number of additional style changes.</p>
1070	N/A	<p>Behavior management: (A) JDCs must implement a behavior management program. (B) The JDC must have written procedures governing the program that provide for orientation of residents. (B)(3) Written procedures must define and list the privileges and sanctions used and available for use. Sanctions may include a cooling-off period where a resident is placed in a room for up to 60 minutes and must identify alternatives to room confinement. Written procedures must establish documentation requirements when privileges or sanctions are imposed. (D) The facility administrator must review the JDC’s behavior intervention techniques and procedures at least annually to determine appropriateness for the population served.</p>	<p>(A) – (B) The proposal clarifies that: (i) these programs must be implemented in each facility; and (ii) with respect to the written procedures addressing orientation, residents must be oriented to the behavior management program. These changes are intended for clarity and will not have an additional impact.</p> <p>*(B)(3) – The proposal imposes additional requirements that direct the JDCs to identify, in written procedures, the specific behaviors or offenses that may result in the listed privileges or sanctions and the maximum duration of the sanction for the delineated behavior or offense. This will ensure that JDC personnel have clear parameters as to the types of offenses that may warrant various sanctions. References to “sanctions” in this section are replaced with “consequences” to acknowledge those rare occasions in which residents may utilize a self-imposed “cooling-off” period as a means of controlling their own behaviors. The proposal also strikes the explanation for “cooling-off” period currently provided in this section and incorporates this information into the newly added definition for “cooling-off” period, in § 10. The proposal replaces references to</p>

			<p>“room confinement” with “disciplinary room restriction (see §§ 1100 and 1105 discussion for additional information).</p> <p>*The proposal adds a new subsection (C) that establishes additional parameters for “cooling-off periods.” Facilities that use cooling-off periods must develop and comply with written procedures that: i) identify the area in which the period will be served; ii) ensure that residents can verbally or electronically communicate with staff while cooling off, iii) require that staff check on residents who are cooling off at 15 minute intervals or more often if the circumstances require, iv) direct that each cooling-off period be documented, including whether the periods are voluntary or compulsory, and v) ensure that the information is staff-accessible and capable of being reviewed.</p> <p>*(E) The proposal enhances the facility administrator’s duty to review the facility’s internal behavior intervention techniques and procedures. The amendments direct facility administrators to collect information on the JDC’s behavior intervention techniques and procedures, including the use of room restriction and cooling-off periods, and to review this information at least annually to inform the facility’s practices. These new, more specific directives may create additional data-gathering responsibilities for staff in JDCs, which may require additional positions or an update to existing systems or software and may result in an increased workload for existing staff. This change will ensure that each JDC is collecting information to determine patterns regarding room restriction and cooling-off periods and the effectiveness of these interventions.</p> <p>The proposal makes several style edits.</p>
1080	N/A	<p>Disciplinary process: (A) (1) includes graduated sanctions and progressive discipline in the list of topics required for written procedures. (B) Generally, alleged rule violations that could result in room restriction as a sanction trigger a disciplinary report</p>	<p>(A) and (C) The word sanction has been replaced with consequence. This change aligns the terminology in the regulation with what is currently in use at the JDCs.</p> <p>(B) The proposal removes the language in this section restricting cooling-off periods to 60 minutes because the 60-minute cap has been incorporated into</p>

	<p>requirement. No disciplinary report is required, however, for residents placed in “cooling-off periods” that do not exceed 60 minutes.</p> <p>(C) JDC staff must document each rule violation punishable by room restriction in a disciplinary report. Once the report is completed and the resident has exercised his due process rights, staff must then render a decision. The entire process must occur within 12 hours after the alleged rule violation, including weekends and holidays. If the 12 hours ends during the resident’s scheduled sleeping hours, the JDC must document the delay and the clock resumes at the start of the resident’s waking hours.</p> <p>(D)(1) The resident may appeal the decision, and the facility administrator or designee has 24 hours from the alleged rule violation to rule on the appeal. If the time frame ends during the resident’s scheduled sleeping hours, the delay must be documented and the clock resumes at the start of the resident’s waking hours. The facility administrator may conduct his review electronically.</p> <p>(D)(2) The JDC must notify the resident in writing of the results of the appeal.</p> <p>(E) A copy of the disciplinary report must be placed in the case record when a resident is determined guilty. The report must be removed from the resident’s record and maintained in accordance with 6VAC35-101-330 (maintenance of residents’ records) when a resident is determined not guilty of the rule violation.</p>	<p>the definition of “cooling-off period” in § 10.</p> <p>*(C) The proposal strikes the provision directing JDC staff to document the interruption of the twelve-hour period during the resident’s scheduled sleeping hours. This requirement is unnecessary given that the disciplinary report must identify the date, time, and location of the incident. This change will reduce the paperwork required of staff in JDCs and is not expected to impact residents.</p> <p>*(D)(1) As with subsection (C), the proposal strikes the provision directing JDC staff to document the interruption of the 24-hour period during the resident’s scheduled sleeping hours, based on the same rationale as above. The proposal also removes as unclear and confusing the facility administrator’s authority to conduct this review electronically. An additional amendment allows the facility administrator’s designee to review a resident’s appeal to a disciplinary decision. This change helps ensure the 24-hour deadline for a decision can be honored if the facility administrator is out of the office or otherwise unavailable for that period.</p> <p>*(D)(2) The proposal strikes the requirement that the resident be notified in writing, instead requiring the JDC to document by signature of the resident and staff that the resident was informed of the results of the appeal. This will give staff flexibility as to how the appeal results will be disseminated to the affected residents.</p> <p>*(E) The proposal strikes the language that makes the duty to place the disciplinary report in the resident’s case record contingent upon a guilty outcome. Instead, the proposal requires all disciplinary reports to be placed in the resident’s record, regardless of the ultimate determination of innocence or guilt. This will reduce administrative responsibilities for staff. This change is not expected to impact the resident. The proposal removes the separate catchlines in subsections (A) through (E)</p>
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			<p>(e.g., procedures, disciplinary report, review of rule violation, appeal, and report retention). Generally, pursuant to the Style Manual, catchlines should not be assigned to subsections and subdivisions. The proposal replaces references to “sanctions” in this section with “consequences,” specifically to acknowledge that “cooling-off periods” may be compulsory or, in some cases, resident-imposed (see discussion of Section 1070). References to “room confinement” are replaced with “room restriction.”</p> <p>The proposal also makes additional style edits.</p>
1090	1115	<p>Physical restraint: (A) JDCs shall use physical restraints as a last resort only after less restrictive interventions have failed or to control residents whose behavior poses a risk to the safety of the resident, others, or the public.</p> <p>(A)(2) Staff may physically restrain a resident only after less restrictive behavior interventions have failed or when failure to restrain would harm the resident or others.</p> <p>(A)(3) Only staff trained in proper and safe restraint may implement, monitor, or discontinue physical restraints.</p>	<p>The proposal repeals Section 1090 and moves all of its contents into a new Section 1115 so that the physical restraint, mechanical restraint, and restraint chair sections can be grouped together. The proposal strikes (A) (2) in its entirety as duplicative.</p> <p>*The proposal changes the identified parties for whom the resident’s behavior must pose a risk in order for physical restraints to be applied to include the resident, staff, or others, rather than the resident, others, or the public. The proposal adds a cross reference to the training requirements set out in §§ 190 and 200 and makes additional minor style edits. These nonsubstantive changes are not expected to impact residents, staff, or operations.</p>
1100	N/A	<p>Room confinement and isolation: (A) Written procedures must govern how and when residents may be confined to a locked room for segregation and isolation.</p> <p>(B) When a resident is confined to a locked room, including for isolation, staff must check the resident visually at least every 30 minutes and more often if circumstances indicate. Staff must check residents on suicide watch at least every 15 minutes in accordance with approved procedures.</p> <p>(C) Residents in isolation must be afforded the opportunity for</p>	<p>(A) The proposal replaces references to “segregation” or “room confinement (e.g., <i>confined to a locked room</i>),” throughout this chapter and more specifically, in this section, with “room restriction.” The proposal also replaces references to isolation with “disciplinary room restriction,” in this section and chapter. These changes are intended to reflect the nomenclature that has been adopted in many JDCs and to change the negative images and connotations often associated with these formerly used terms. *The proposal adds additional information that must be included in written procedures addressing “room restriction” including: 1) actions that may result in room restriction; 2) factors to</p>

	<p>at least one hour of physical exercise outside of the locked room every calendar day, unless the resident's behavior or other circumstances justify an exception. The rationale for the exception must be documented.</p> <p>(D) - (E) If a resident is confined to his room for more than 24 hours, the facility administrator or designee must be notified.</p> <p>(E) – (F) If confinement extends to more than 72 hours, the confinement and steps planned or taken to resolve the situation must be reported immediately to the director or designee. Verbal reports must be followed immediately with a written, faxed, or secure email report.</p> <p>(F) - (G) Room confinement may not exceed five consecutive days unless ordered by a medical provider.</p> <p>(H) – (I) The administrator or designee must make personal contact with each resident who is confined to a locked room each day of confinement.</p>	<p>consider before imposing room restriction; 3) situations that necessitate a debriefing with the resident and the parameters around such debriefing; and 4) conditions under which staff must consult with a mental health clinician for residents who self-injure while in room restriction.</p> <p>*(B) The proposal increases the frequency of visual checks for residents placed in room restriction to once every 15 minutes and removes the special provision addressing residents on suicide watch. As a result, staff must conduct visual checks on all residents on room restriction at 15-minute intervals.</p> <p>*(C) The proposal specifies that the physical exercise is large muscle activity and requires the facility administrator or his designee's approval before any exception may be applied.</p> <p>*(D) Residents in room restriction for more than 24 hours, except those in disciplinary room restriction as provided in §1105, must be afforded the same opportunities as any other resident in general population, including treatment, education, and as much time outside the resident's room as security considerations allow.</p> <p>*(D) – (E) The proposal is amended to require the facility administrator to provide written approval in order for room restriction to continue beyond 24 hours, which approval must include a rationale of why the continued room restriction is necessary.</p> <p>*(E) – (F) The proposal adds language requiring that for room restriction anticipated to exceed 72 hours, the medical and mental health status of the resident be assessed by a mental health clinician or qualified medical professional during the initial 72-hour period and on a daily basis after the 72-hour period elapses until the resident is released from room restriction. Additionally, the language is amended to clarify that notification pertaining to room restriction beyond 72 hours shall be made</p>
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			<p>immediately to the director or the director's designee.</p> <p>*(F) - (G) The proposal adds mental health clinicians to the individuals authorized to order restriction beyond 5 days.</p> <p>*(H) - (I) The proposal directs the administrator to ensure that all restricted residents are restricted only as long as necessary to address the resident's negative behavior or threat. The proposal directs the administrator, during the daily visit, to assess and document whether such residents are prepared to return to general population and whether they require a mental health evaluation.</p> <p>*(J) The proposal adds a new subsection that prohibits JDCs from housing more than one restricted resident per room. These changes reflect the national trend towards more monitoring protocols, additional opportunities for resident/staff interaction, and other changes aimed at ensuring the continued safety of restricted residents. While these changes are anticipated to impose significant additional administrative responsibilities on JDC staff that may necessitate hiring additional personnel, the changes will help to ensure that room restriction is administered in a manner that ensures the safety of both residents and staff and produces the most positive outcome for residents.</p>
N/A	1105	<p>Disciplinary room restriction: Section 1100 also addresses "isolation," which is intended to apply when residents are placed in confinement for violating a facility rule, after application of the disciplinary process. Section 1100 provides that during isolation, residents are prohibited from participating in activities with other residents, and all activities are restricted, with the exception of eating, sleeping, personal hygiene, reading, and writing.</p>	<p>The proposal removes this provision from § 1100 and places it in this new § 1105, intended to address isolation solely. The proposal allows the facility administrator or the facility administrator's designee to issue an exception to the general rule restricting participation in activities with other residents during disciplinary room restriction. The proposal also amends this provision to prohibit JDCs from restricting legally required educational programming and special education services, in addition to the existing prohibitions. This new language is consistent with state and federal law. *The proposal removes writing and reading from the list of activities JDCs are prohibited from restricting and adds language requiring</p>

			<p>the administrator or his designee to provide opportunities for residents placed in disciplinary room restriction to engage in reading or writing activities in accordance with their safety or security needs. This change acknowledges the potential safety issues for restricted residents who are given writing utensils or reading materials during their restriction period and gives facility administrators some discretion as to how to provide opportunities for these exercises in a manner that ensures the resident's safety.</p> <p>*The proposal also adds language requiring the JDC to have written disciplinary room restriction procedures that: (i) permit residents to be placed in disciplinary room restriction only after application of the disciplinary process and (ii) require JDCs to comply with the behavior management requirements with respect to disciplinary room restriction.</p>
1110	N/A	<p>Administrative confinement: This section addresses the rules for residents placed in administrative confinement, a special housing unit, or designated cell established for protective custody or to manage residents whose behaviors seriously threaten facility security.</p>	<p>*The proposal repeals this section in its entirety. The general provisions addressing room restriction are comprehensive and sufficient to encompass residents who are placed in room restriction for protective custody purposes or to address special management of behaviorally challenged residents. Furthermore, few JDCs currently have separate housing units or designated cells established for protective custody. As such, repealing this section is not expected to have a significant impact on residents, staff, or facility operations.</p>
1115	N/A	<p>Physical restraint: (A) Physical restraint shall be used as a last resort after less restrictive interventions have failed or to control residents whose behavior poses a risk to the safety of other residents, staff, or themselves. (A)(1) and (2) set additional restrictions including the prohibition of using restraint as a punishment, the requirement that the least force deemed necessary be used to eliminate the risk or maintain security, and that only those staff trained in proper and safe use of restraint may implement,</p>	<p>See the discussion for Section 1090.</p>

		<p>monitor, or discontinue physical restraint.</p> <p>(B) requires facilities to implement written procedures governing the use of physical restraint and sets out four items those procedures must include: (1) which staff will write the necessary incident report and within what timeframe, (2) which staff will review the report and within what timeframe, (3) the methods to be followed should physical restraint or other permitted measures prove unsuccessful in calming the resident or moderating the resident's behavior, and (4) an administrative review of the use of each physical restraint to ensure conformity with procedures.</p> <p>(C) sets out the information that must be documented when physical restraint is used, including the date and time of the incident, the staff involved, justification for the restraint, the less restrictive behavior interventions that were attempted before using physical restraint, the duration of the restraint, a description of the method or methods of physical restraint used, the dated signature of the person completing the report, and the reviewer's signature and date.</p>	
<p>Article 3, §1130</p>	<p>N/A</p>	<p>Mechanical restraints: (A)- (A) (1) - JDCs must have department-approved written procedures governing mechanical restraints. The procedures must specify the conditions for use of mechanical restraints. (A)(2) – (A)(6), (B) – These sections require JDCs to include in their written procedures parameters on mechanical restraint use, including provisions for: (i) notifying the facility</p>	<p>* (A) – (A) (1) -The proposal strikes the general provision that effectively authorizes facilities, through written procedures, to determine the purposes and conditions for which mechanical restraints may be used, replacing it with a provision limiting permissible uses of mechanical restraints to the following purposes: (i) to control residents whose behavior imminently risks their own safety or that of staff or others; (ii) for controlled movement, or (iii) to address emergencies. The proposal moves the enumerated list of mechanical restraints into the definition in Section 10 and</p>

	<p>administrator or designee immediately when restraints are used in emergencies; (ii) never using restraints as a sanction; (iii) never restraining residents to fixed objects or in unnatural positions; (iv) recording each restraint, except restraints for transportation or during video court proceedings, in the case file or central log book; and (v) maintaining a written record of distribution of routine and emergency restraint equipment. Additionally, the procedure must require training for staff authorized to use mechanical restraints and such training must address checking for circulation and injuries.</p>	<p>expressly excludes mechanical restraint chairs from this list to allow for distinct treatment.</p> <p>*(A) (2) – (A) (6), (B) – Rather than directing JDCs to include these provisions in their procedures, the proposal adds a new subsection (B) that imposes many of these requirements outright. The requirements differ in that: (i) a new provision allows mechanical restraint use only for as long as necessary to address the intended purpose in subsection (A); (ii) a mental health clinician, or other qualifying licensed medical professional may terminate mechanical restraint use upon determining the restraint poses a health risk; (iii) JDCs must have systems of accountability in place, rather than a written record, regarding distribution of mechanical restraints; (iv) staff authorized to use mechanical restraints need not be trained specifically on how to check for signs of circulation or injuries (as these specific duties will be borne by health-trained staff as discussed below, and (v) these restrictions and requirements have been expanded to apply to the use of protective devices, (as defined in Section 10), in addition to mechanical restraints. These new provisions will help to limit the duration of mechanical restraint and protective device use and ensure properly trained and knowledgeable medical or mental health professionals can assess any threats to the resident’s physical or mental health brought on by placement in the chair.</p> <p>*In addition, the proposal expressly permits JDCs to secure residents to hospital beds or wheelchairs in outside medical settings if authorized in writing by the facility administrator. This change will enhance safety in nonsecure medical settings by giving the facility administrator additional discretion to control residents who are dangerous or pose a flight risk.</p> <p>*The proposal adds a subsection (C) applicable when JDCs wish to continue using a mechanical restraint to control a resident after the initial threat necessitating the restraint is abated. In these cases, if the facility deems</p>
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			<p>continued use of the restraint necessary because the resident is threatening to injure himself or others, the JDC must notify a health care provider and mental health clinician before continuing use of the restraint.</p> <p>*A new subsection (D) prohibits JDCs from using protective devices if the use is not in connection with a restraint and requires the JDC to remove the device as soon as the resident is released from the restraint.</p> <p>*Finally, the proposal adds a new subsection (E) expressly authorizing the use of spit guards on JDC residents provided: the guard's design does not inhibit the resident's ability to breathe and allows for visibility and the device is sold specifically to prevent biting or spitting. The proposal allows these devices to be used only on residents who previously bit or spit on someone at the current facility or threaten, attempt to, or actually spit on a resident or staff in the course of being restrained.</p> <p>*The spit guard must be applied so as not to inhibit the resident's breathing, and staff must ensure the resident is reasonably comfortable and has access to water and meals while the guard is in place. Staff also must supervise the resident constantly while the guard is in place and if the resident exhibits signs of respiratory distress, staff must take immediate action to prevent injury and to notify supervisory staff. Staff may not use a guard on an unconscious, vomiting or resident in obvious need of medical attention.</p> <p>These changes will help to reduce the use of mechanical restraints and protective devices, control the duration of such use, and ensure that such devices are used in the safest manner.</p>
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1140	N/A	<p>Monitoring restrained residents: (A) JDCs' written procedures must require staff to make <i>direct personal</i> checks on mechanically-restrained residents a minimum of once every 15 minutes and more frequently if the resident's behavior warrants. Other provisions in this chapter applicable to staff checks on residents (e.g., § 1100) require staff to check the resident "visually," which suggests a distinction between direct personal checks and visual checks. Furthermore, during the checks, staff must monitor the resident's circulation and monitor them for injuries.</p> <p>(B) If a JDC mechanically restrains a resident for more than two cumulative hours in a 24-hour period (except during routine transportation) staff must immediately consult with a health care provider and mental health professional.</p> <p>(C) If a mechanically restrained resident exhibits self-injurious behavior, staff must consult immediately (and document such consultation) with a mental health professional and must monitor the resident in accordance with established protocols that comply with Section 1150. (<i>see discussion below</i>).</p>	<p>(A) *The proposal clarifies this provision by replacing the reference to a "direct personal check" with a "face-to-face" check to indicate that the employee and resident must be in close proximity and staff must be able to look directly at the resident's face to satisfy this requirement. *In addition, the proposal adds new language directing the employee to try to engage verbally with the resident during these checks and offering examples of permissible approaches for engagement. *Finally, the proposal requires a health-trained staff member to monitor the resident for signs of circulation and for injuries during each periodic check. These changes will help to ensure that residents restrained for extended periods are being properly monitored and are not escalating.</p> <p>*(A) and (B) The proposal creates an exception to the requirements of (A) and (B) of this section when residents are being transported offsite. The exception introduced in these subsections acknowledges the logistical complications that hinder compliance with these requirements during vehicular transportation.</p> <p>*(New B) –The proposal adds a new subsection (B) that requires JDCs to allow residents mechanically restrained for longer than one hour to exercise their limbs for at least 10 minutes every two hours in order to prevent blood clots. This is consistent with the National Commission on Correctional Health Care's Standards for Health Services in Juvenile Detention and Confinement Facilities.</p> <p>*(B) - (New C) - The proposal amends this subsection to require staff to consult with a mental health clinician, in addition to the health care provider, when a resident is mechanically restrained for two hours cumulatively during a 24-hour period. An exception is permitted when residents are being transported offsite. The proposal moves this provision to subsection (C).</p>
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			<p>*(New D) – The proposal moves the provision that addresses residents who exhibit self-injurious behaviors while mechanically restrained to subsection (D) and adds language requiring staff to respond by whatever means appropriate to ensure the threat or harm is stabilized before consulting with the mental health clinician. This adds a layer of protection for both staff and residents and ensures that staff will stabilize the threat before contacting the mental health clinician for additional guidance. The proposal also removes the provision requiring the protocol to comply with section 1150, as that section is being repealed (see <i>discussion of Section 1150 below</i>).</p>
N/A	1145	N/A	<p>Written procedures regarding mechanical restraints and protective devices –* The proposal adds language requiring JDCs to establish written procedures to reflect all of the provisions established in Article 3 (§ 1130, 1140, and 1145). This eliminates the need to require procedures related to specific requirements in each section.</p>
1150	N/A	<p>Restraints for medical and mental health purposes: JDCs’ written procedures currently govern the use of restraints for medical and mental health purposes and must address what authorization is necessary for restraint use and when, where, how, for what duration, and what types of restraints may be used.</p>	<p>*The proposed amendments to Sections 1130 and 1140 expressly address notifications and authorizations needed for general use of restraints, as well as guidance on permissible purposes, duration, and types of restraints, rendering a provision applicable solely to restraints for medical and mental health purposes unnecessary. Furthermore, adopting the proposed amendments to Sections 1130 and 1140 and repealing this provision guarantee that JDCs across the state will have a more uniform process in place when applying mechanical restraints.</p>
N/A	Article IV, § 1153	<p>Section 1130 of the existing regulation lists, among other authorized mechanical restraints, mobile restraint chairs and requires JDCs to establish written procedures governing the conditions under which they may be used. Because mobile restraint chairs fall under the list of permissible mechanical restraints, all of the existing restrictions in Sections 1130 and 1140 applicable to</p>	<p>*Rather than leaving the discretion to JDCs to decide the conditions under which restraint chairs may be used, the proposal creates a new Article IV and establishes several new sections (§§1153 through 1159) that impose restrictions on their use. Section 1153 sets forth general provisions regarding the use of restraint chairs in JDCs. Among these: (i) restraint chairs may never be used as a consequence; (ii) staff authorized to use the chair must receive initial and annual training; (iii) before a resident is placed in the chair, the JDC administrator must</p>

		<p>mechanical restraints apply to the mobile restraint chair.</p>	<p>approve; (iv) with the exception of situations in which residents volunteer to be placed in the chair, staff must notify the health authority immediately upon placing the resident in the chair, who must assess the resident's health condition or behavior and determine if the resident should be placed in a health unit for emergency involuntary treatment; (v) for residents exhibiting self-injurious behavior while in the chair, staff must take appropriate action to stabilize the threat, consult a mental health clinician immediately thereafter, and obtain approval for continued use; (vi) the health authority, mental health clinician, or other qualifying licensed medical professional may terminate use of the chair if they determine it poses a health risk; (vii) each use of the chair triggers a requirement to complete a serious incident report and comply with all other provisions in Section 80, (viii) each use must be documented in the resident's case file or a central logbook, and must include specific information, and (ix) once a resident is released from the chair, staff must conduct a debriefing.</p> <p>The new provisions in this section and throughout this article will result in additional duties and obligations for staff, but are intended to ensure that staff are using restraint chairs sparingly, that the appropriate staff are notified of and sign off on initial or continued use of the chair, that the chair will not be used if such use presents a health risk, and that the JDC maintains sufficient documentation to assess and evaluate each use of the restraint chair</p>
N/A	1154	N/A	<p>Mechanical restraint chair use for controlled movement; conditions. *The proposed amendments outlined in Sections 1154 and 1155 highlight the following three purposes for which residents may be placed in the restraint chair: (i) for controlled movement from one area of the facility to another, (ii) as a self-regulation tool, or (iii) if their behavior directly and immediately threatens themselves or others. Under this section, residents may be placed in the restraint chair for purposes of controlled movement provided: (i) their refusal to</p>

			<p>move directly and immediately threatens the resident or others or interferes with required facility operations; and (ii) placement in the chair is the least restrictive option available to ensure the resident's safe movement. These controls ensure that JDCs will use the restraint chair as a last resort and only for as long as is necessary to transport the resident.</p>
N/A	1155	N/A	<p>Mechanical restraint chair use for purposes other than controlled movement; conditions for use. *Under the proposal, JDC staff may use the chair for purposes other than controlled movement if: (i) the resident's behavior presents a direct, immediate threat to himself or others; (ii) less restrictive alternatives were attempted, unsuccessfully, and (iii) the resident remains in the chair only until the threat is abated or the resident gains self-control. The proposal allows for continued restraint after the direct threat is abated if staff determines continued restraint is needed to maintain security due to the resident's credible threat for self injury or injury to himself or others; however, staff must consult with and obtain approval from a mental health clinician before continuing the restraint. When residents are placed in the chair voluntarily in accordance with an approved plan of care by a mental health clinician, these restrictions do not apply. The proposal also adds monitoring requirements applicable when JDCs use the chair for purposes other than controlled movement. Staff must employ constant one-on-one supervision and attempt to engage verbally with the resident while restrained. Health-trained staff must check the resident for signs of circulation or injury once every 15 minutes. Staff also must ensure that the resident is reasonably comfortable and has access to meals, water, and toilet.</p> <p>The proposal also makes numerous style edits.</p>
N/A	1156	N/A	<p>Monitoring residents placed in a mechanical restraint chair: *This new provision, applicable regardless of the purpose for which the chair is used, requires JDC staff to allow residents restrained in the chair for longer than one</p>

			<p>hour to exercise all of their limbs for a minimum of 10 minutes every two hours to prevent blood clots. This provision is consistent with the National Commission on Correctional Health Care's Standards for Health Services in Juvenile Detention and Confinement Facilities.</p> <p>*The proposal also requires JDCs to film staff placing the resident in the chair when the resident is restrained for controlled movement, and the entire restraint, from placement to release, when the resident is placed in the chair for purposes other than controlled movement. These provisions will enable the department to assess whether the JDC has complied with these regulatory requirements.</p> <p>The proposal makes minor style edits.</p>
N/A	1157	N/A	<p>Department monitoring visits: *In order to ensure that JDCs are complying with the regulatory provisions regarding use of the chair, the proposal subjects the JDC to a monitoring visit by department staff for each use of the chair, regardless of the purpose or duration of the restraint.</p> <p>*The proposal also requires the department to annually submit for the board's review and consideration, a written report outlining the results of each such monitoring visit. These provisions will allow the department and board to monitor JDC compliance with the mechanical restraint chair provisions and to determine whether, based on the information obtained, the board should revisit the regulatory authorization to use the chair.</p> <p>The proposal makes minor style edits.</p>
N/A	1158	N/A	<p>Written procedures regarding mechanical restraint chairs: *The proposal requires JDCs to have written procedures in place that reflect the requirements in Article 4 (Sections 1153 through 1158). This eliminates the need to require procedures related to specific requirements in each section. Although the proposal imposes additional duties on staff, it will ensure that JDCs have written procedures in place for carrying out the mandates of this article.</p>

1160	N/A	<p>Approval of postdispositional detention programs: JDCs must have board approval to operate post -D programs, as indicated on their board-issued certificate. The board must base its approval on the program's compliance with each of the existing post-D regulatory provisions currently set out in §§1170 through 1270.</p>	<p>Effective September 2013, the department amended its Certification Regulations (6VAC35-20) to give the director, rather than the board, the authority to certify residential facilities regulated by DJJ. In accordance with these changes, the proposal lists the director as the individual authorized to conduct post-D program certifications. As this requirement is contained in the current Certification Regulations and reflects the current practice, this change will not impact facility operations. *The proposal also removes the requirement that the board base its approval of the program on its compliance with the post-D regulatory provisions. A JDC cannot meet many of the regulatory requirements in the aforementioned sections (e.g., requirement to develop a service plan within 30 days of the resident's admission; required information that must be contained in post-D record, etc.) without having first been certified to operate the program.</p>
1170	N/A	<p>Agreement with court service unit: Post-D programs must request written agreement with the CSU of the committing court that defines working relationships and responsibilities in implementing and utilizing the post-D program.</p>	<p>The proposal imposes a more stringent requirement on JDCs operating post-D programs that reflects the existing practice for most programs. *The proposal requires the post-D program to enter into a written agreement with the CSU, rather than merely requesting a written agreement. Absent this language, a mere request by the applicable post-D program for a written agreement would be sufficient, without the actual execution of an agreement. Execution of a written agreement will ensure that the parties have agreed to the terms regarding these programs. The proposal also replaces references to the "committing court" with the "court ordering placement" because residents are not committed to post-D programs.</p>
1180	N/A	<p>Placements in postdispositional detention programs: (B)(1) requires the facility to obtain from the court service unit a copy of the court order placing a resident in postdispositional detention, the most recent social history, and any other written information considered by the court during the sentencing hearing. (B)(2)</p>	<p>The proposal changes sentencing hearing to dispositional hearing in (B) (1). This change corrects the terminology used in the previous version but does not change the substance or intent of this provision. In (B)(2), the proposal directs JDCs to address how the resident will be transported as part of the plan, and gives JDCs the authority to allow, as part of the plan, JDC and CSU staff, as well as other adults approved by the JDC to be</p>

		– If a court orders a resident to a post-D program, the JDC must develop a written plan with the CSU within five business days that will allow the resident to participate in at least one locally available treatment program in the community or at the JDC.	responsible for transporting the residents. This provision is currently part of the Guidelines for Transporting Juveniles in Detention that will no longer be incorporated by reference into the regulation. Prior to January 1, 2016, JDCs were subject to this requirement by virtue of the Guidelines. Therefore, this change is not expected to have any additional impact on residents, staff, or facilities. The proposal makes other style edits.
1190	N/A	Program description	The proposal makes a minor style edit.
1200	N/A	Individual service plans in postdispositional detention programs: (A) JDCs with post-D programs must ensure that a service plan is developed and placed in each post-D resident’s record. The plan must specify short term and long term goals, the objectives, strategies, and time frames for reaching them, and the individuals responsible for carrying out the plan.	*The proposal removes the requirement that the service plan specify short- and long- term goals. The duration of a post-D program is, at most, 180 days, and service plans for resident participants must be completed within 30 days following their admission. This gives the resident only five months to accomplish whatever goals are established and eliminates the need to distinguish between short and long-term goals. The proposal will allow the post-D staff more leeway in developing appropriate goals for residents participating in the program. The proposal also makes minor style edits. These changes will not significantly impact residents, staff, or operations.
1210	N/A	Progress reports in postdispositional detention programs:	The proposal makes minor style edits.
1220	N/A	Case management services in postdispositional detention programs: (A) requires the facility to implement written procedures governing case management services.	The language changes facility to facility administrator to clarify responsibility and accountability. The proposal also makes additional style edits.
1230	N/A	Residents’ health care records in postdispositional detention programs	The proposal makes minor style edits.
1240	N/A	Services by licensed professionals in postdispositional detention programs: (A) If a post-D program refers a resident to a licensed professional in private practice, the program must consult the applicable licensing authority’s Internet web page or use other appropriate means to verify the person’s licensure.	*(A) The proposal strikes this specific directive in favor of a more general directive that the facility verify the individual’s licensure. This amendment will give JDCs the discretion to use whatever means are appropriate to verify the individual’s licensure and will prevent the department from having to update the regulation unnecessarily when means of verifying this information evolve. As this change will not impact the resident’s access to services provided by professionally licensed individuals, the

			proposal is not expected to impact residents, and will have little if any impact on post-D staff, who currently may elect to verify through the licensing authority's website or by other appropriate means.
1250	N/A	Delivery of medication in postdispositional detention programs:	The proposal makes minor style edits.
1270	N/A	Release from a postdispositional detention program. This and other sections of the regulation use the terms "release" and "discharge" synonymously to refer to a resident's liberation from a JDC upon completion of the program or by court order. This section establishes that legal guardians or legally authorized representatives shall be provided with information concerning the resident's need for continuing therapeutic interventions, educational status, and other information at the time of release from the facility.	<p>In order to reduce confusion, the proposal makes minor style changes by replacing references to "discharge" with, "release" and by adding explicit language clarifying that a "release" involves a release from a detention center. The change is not expected to impact residents, staff, or operations.</p> <p>The language adds parent to the list of individuals directed to receive certain information at the time of a resident's release from post-D detention. This change corrects an oversight in the existing regulation and does not change the substance or intent of this provision.</p>
9999		Documents incorporated by reference: The existing regulations incorporate two DJJ-created, board-approved documents: 1) Guidelines for Transporting Juveniles in Detention; and 2) the department's Compliance Manual – Juvenile Secure Detention Centers. The Guidelines provide rules regarding the transportation of juveniles to medical and dental appointments, psychological and psychiatric assessments, and other destinations. The compliance manual provides additional interpretive guidance on how to comply with this chapter.	The proposal removes both the Guidelines for Transporting Juveniles in Detention and the Compliance Manual from the list of documents incorporated by reference. This change is necessitated by 1VAC7-10-140, which, effective January 1, 2016, prohibits agencies from incorporating their own documents by reference into a regulation unless the agency establishes that the documents or circumstances are unique and highly unusual. The provisions in the Guidelines for Transporting Juveniles have been placed in §§ 640 and 650 of the regulation. The Compliance Manual will remain in effect; however, compliance with its provisions will no longer be mandated by regulation.